

SB 639 [SB 639]

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

Modifies production requirements for sellers of jams and jellies.

AN ACT to amend chapter 261, RSMo, by adding thereto one new section relating to processing requirements for jams and jellies.

SECTION

A. Enacting clause.

261.241. Sellers of jams or jellies, no manufacturing facilities required, when—compliance with health standards and regulations required.

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

SECTION A. ENACTING CLAUSE. — Chapter 261, RSMo, is amended by adding thereto one new section, to be known as section 261.241, to read as follows:

261.241. SELLERS OF JAMS OR JELLIES, NO MANUFACTURING FACILITIES REQUIRED, WHEN—COMPLIANCE WITH HEALTH STANDARDS AND REGULATIONS REQUIRED. — **Sellers of jams and jellies whose annual sales of jams and jellies are thirty thousand dollars or less shall not be required to construct or maintain separate facilities for the manufacture of food products. However, such sellers shall comply with all remaining health standards and regulations for the manufacture of food products pursuant to chapter 196, RSMo.**

Approved June 13, 2002

SB 644 [SB 644]

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

Allows veterans to obtain a specialized veteran motorcycle license plate.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to veterans license plates for motorcycles.

SECTION

A. Enacting clause.

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. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.4000, to read as follows:

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

SB 650 [CCS HCS SS#2 SB 650]

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

Removes statute of limitations for forcible rape and forcible 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

SB 656 [SCS SB 656]

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

Requires insurance policies to be governed by the English version filed with the Insurance Department.

AN ACT to amend chapter 375, RSMo, by adding thereto one new section relating to the interpretation of insurance materials, with penalty provisions.

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 misrepresentation.

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 June 27, 2002

SB 675 [HS HCS SS SCS SB 675]

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

Revises election laws.

AN ACT to repeal sections 28.160, 115.013, 115.081, 115.083, 115.085, 115.087, 115.089, 115.095, 115.097, 115.099, 115.101, 115.122, 115.123, 115.127, 115.133, 115.135, 115.137, 115.151, 115.157, 115.159, 115.160, 115.162, 115.163, 115.179, 115.195, 115.225, 115.233, 115.237, 115.277, 115.279, 115.283, 115.284, 115.287, 115.291, 115.365, 115.367, 115.409, 115.417, 115.419, 115.427, 115.429, 115.433, 115.439, 115.453, 115.493, 115.507, 115.607, 115.613 and 115.755, RSMo, relating to elections, and to enact in lieu thereof fifty-eight new sections relating to the same subject, with penalty provisions and an emergency clause for a certain section.

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.
- 71.005. Candidates for municipal office, no arrearage for municipal taxes or user fees permitted.
- 115.013. Definitions.
- 115.074. Voting process and equipment, grants to upgrade or improve, award procedure — rulemaking authority.
- 115.076. Administration of grant program — rulemaking authority.
- 115.081. Number of judges to be appointed, supervisory judges, duties of.
- 115.085. Qualifications of election judges.
- 115.087. Selection of judges in counties not having a board of election commissioners.
- 115.089. Terms of election judges appointed by board.
- 115.095. Judge failing to appear, temporary judge to be appointed, how.
- 115.097. Judge not to be absent from polls more than one hour — not more than one judge from the same party to be absent at the same time.
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- 115.098. Election judges, grant program to increase compensation, requirements — rulemaking authority.
 - 115.099. Authority to supervise judges.
 - 115.101. Judges' compensation, how set — not employees of election authority.
 - 115.102. Election judge, service as, employer not to discriminate against — violation, penalty.
 - 115.123. Public elections to be held on certain Tuesdays, exceptions — presidential primary, when held — exemptions.
 - 115.126. Advance voting period, election authorities to establish plan to implement, requirements — rulemaking authority.
 - 115.127. Notice of election, how, when given — striking names or issues from ballot, requirements — declaration of candidacy, officers for political subdivisions or special elections, filing date, when, notice requirements — candidate withdrawing, ballot reprinting, cost, how paid.
 - 115.133. Qualifications of voters.
 - 115.135. Persons entitled to register, when — identification required.
 - 115.137. Registered voters may vote in all elections — exception.
 - 115.151. Registration complete, when.
 - 115.157. Registration information may be computerized, information required — voter lists may be sold — candidates may receive list for reasonable fee — computerized registration system, requirements — voter history and information, how entered, when released — records closed, when.
 - 115.159. Registration by mail, voter I.D. card delivered to voter, when — delivery of absentee ballots, when.
 - 115.160. Driver's license applicants to receive voter registration application, contents — rules — forwarding of application to election authority, when.
 - 115.162. Secretary of state to provide voter registration applications at certain public offices — duties of voter registration agency — declination of registration.
 - 115.163. Precinct register required — computer or binder lists authorized — computer I.D. cards, procedures and uses — list of registered voters available, fee.
 - 115.179. Registration records to be canvassed, when.
 - 115.195. Death, felony, and misdemeanor convictions, persons adjudged incapacitated — records, when obtained.
 - 115.225. Automated equipment to be approved by secretary of state — standards to be met — rules, promulgation, procedure.
 - 115.233. Testing of automatic tabulating equipment, when done, procedure.
 - 115.237. Ballots, contents of — form of — rulemaking authority.
 - 115.277. Persons eligible to vote absentee.
 - 115.279. Application for absentee ballot, how made.
 - 115.283. Statements of absentee voters or persons providing assistance to absentee voters — forms — notary seal not required, when.
 - 115.284. Absentee voting process for permanently disabled persons established — election authority, duties — application, form — list of qualified voters established.
 - 115.287. Absentee ballot, how delivered.
 - 115.291. Confidentiality of applications for absentee ballots, list available to authorized persons free — certain cities and counties, special provisions, violations, penalty — fax, transmission may be used to deliver or return ballot, when.
 - 115.365. Nominating committee designated as to certain offices.
 - 115.367. Change of district boundaries, effect on nominating committee.
 - 115.409. Who may be admitted to polling place.
 - 115.417. Voter instruction cards to be delivered to polls — instructions to be posted, how.
 - 115.419. Sample ballots, cards or ballot labels to be delivered to the polls, when.
 - 115.420. Butterfly ballot prohibited, exceptions.
 - 115.427. Voter to present form of personal — rulemaking authority — identification mark in lieu of signature permitted, when.
 - 115.429. Person not allowed to vote — appeal, how taken — voter may be required to sign affidavit, when — false affidavit a class one offense.
 - 115.433. Judges to initial paper ballots or ballot cards, when.
 - 115.439. Procedure for voting paper ballot — rulemaking authority.
 - 115.453. Procedure for counting votes for candidates.
 - 115.493. Ballots and records to be kept one year, may be inspected, when.
 - 115.507. Announcement of results by verification board, contents, when due — abstract of votes to be official returns.
 - 115.607. County committee, selection of.
 - 115.613. Committeeman and committeewoman, how selected — tie vote, effect of — if no person elected a vacancy created — single candidate, effect of.
 - 115.755. Presidential primary, when held.
 - 115.801. Youth voting programs, grant program to be administered.
 - 115.803. Federal elections, grant program to improve election process.
 - 115.806. Rulemaking authority.
 - 1. Provisional ballots, used when, exceptions, procedure — rulemaking authority.
 - 115.083. Additional judges authorized, even number and bipartisan required.
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- 115.122. Any county, city, town or village may hold an election on August 5, 1997.
 B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 28.160, 115.013, 115.081, 115.083, 115.085, 115.087, 115.089, 115.095, 115.097, 115.099, 115.101, 115.122, 115.123, 115.127, 115.133, 115.135, 115.137, 115.151, 115.157, 115.159, 115.160, 115.162, 115.163, 115.179, 115.195, 115.225, 115.233, 115.237, 115.277, 115.279, 115.283, 115.284, 115.287, 115.291, 115.365, 115.367, 115.409, 115.417, 115.419, 115.427, 115.429, 115.433, 115.439, 115.453, 115.493, 115.507, 115.607, 115.613 and 115.755, RSMo, are repealed and fifty-eight new sections enacted in lieu thereof, to be known as sections 28.160, 71.005, 115.013, 115.074, 115.076, 115.081, 115.085, 115.087, 115.089, 115.095, 115.097, 115.098, 115.099, 115.101, 115.102, 115.123, 115.126, 115.127, 115.133, 115.135, 115.137, 115.151, 115.157, 115.159, 115.160, 115.162, 115.163, 115.179, 115.195, 115.225, 115.233, 115.237, 115.277, 115.279, 115.283, 115.284, 115.287, 115.291, 115.365, 115.367, 115.409, 115.417, 115.419, 115.420, 115.427, 115.429, 115.433, 115.439, 115.453, 115.493, 115.507, 115.607, 115.613, 115.755, 115.801, 115.803, 115.806 and 1, 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 to exceed the actual cost of document search and duplication	.10]
For duplicating microfilm, for each roll not to exceed the actual cost of staff time required for searches and duplication	[15.00],
For copying all other records, papers or documents, for each page 8 ½ x 14 inches and smaller, not [more than to exceed the actual cost of document search and duplication	.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; **and**

(9) **Services, equipment and functions relating to state and local elections.**

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.

71.005. CANDIDATES FOR MUNICIPAL OFFICE, NO ARREARAGE FOR MUNICIPAL TAXES OR USER FEES PERMITTED. — No person shall be a candidate for municipal office unless such person complies with the provisions of section 115.346, RSMo, regarding payment of municipal taxes or user fees.

115.013. DEFINITIONS. — As used in this chapter, unless the context clearly implies otherwise, the following terms mean:

(1) "Automatic tabulating equipment", the apparatus necessary to examine and automatically count votes, and the data processing machines which are used for counting votes and tabulating results;

(2) "Ballot", the ballot card [or], paper ballot **or ballot designed for use with an electronic voting system** on which each voter may cast all votes to which he or she is entitled at an election;

(3) "Ballot card", a ballot which is voted by making a punch or sensor mark which can be tabulated by automatic tabulating equipment;

(4) "Ballot label", the card, paper, booklet, page or other material containing the names of all offices and candidates and statements of all questions to be voted on;

(5) "Counting location", a location selected by the election authority for the automatic processing or counting, or both, of ballots;

(6) "County", any one of the several counties of this state or the city of St. Louis;

(7) "Disqualified", a determination made by a court of competent jurisdiction, the Missouri ethics commission, an election authority or any other body authorized by law to make such a determination that a candidate is ineligible to hold office or not entitled to be voted on for office;

(8) "District", an area within the state or within a political subdivision of the state from which a person is elected to represent the area on a policy-making body with representatives of other areas in the state or political subdivision;

(9) "Electronic voting system", a system of casting votes by use of marking devices, and counting votes by use of automatic tabulating or data processing equipment, **and includes computerized voting systems;**

(10) "Established political party" for the state, a political party which, at either of the last two general elections, polled for its candidate for any statewide office, more than two percent of

the entire vote cast for the office. "Established political party" for any district or political subdivision shall mean a political party which polled more than two percent of the entire vote cast at either of the last two elections in which the district or political subdivision voted as a unit for the election of officers or representatives to serve its area;

(11) "Federal office", the office of presidential elector, United States senator, or representative in Congress;

(12) "Independent", a candidate who is not a candidate of any political party and who is running for an office for which party candidates may run;

(13) "Major political party", the political party whose candidates received the highest or second highest number of votes at the last general election;

(14) "Marking device", either an apparatus in which ballots are inserted and voted by use of a punch apparatus, or any approved device [for marking paper ballots with ink or other substance] which will enable the votes to be counted by automatic tabulating equipment;

(15) "Municipal" or "municipality", a city, village, or incorporated town of this state;

[(15)] (16) "New party", any political group which has filed a valid petition and is entitled to place its list of candidates on the ballot at the next general or special election;

[(16)] (17) "Nonpartisan", a candidate who is not a candidate of any political party and who is running for an office for which party candidates may not run;

[(17)] (18) "Political party", any established political party and any new party;

[(18)] (19) "Political subdivision", a county, city, town, village, or township of a township organization county;

[(19)] (20) "Polling place", the voting place designated for all voters residing in one or more precincts for any election;

[(20)] (21) "Precincts", the geographical areas into which the election authority divides its jurisdiction for the purpose of conducting elections;

[(21)] (22) "Public office", any office established by constitution, statute or charter and any employment under the United States, the state of Missouri, or any political subdivision or special district, but does not include any office in the reserve forces or the national guard or the office of notary public;

[(22)] (23) "Question", any measure on the ballot which can be voted "YES" or "NO";

[(23)] (24) "Relative within the [second] first degree by consanguinity or affinity", a spouse, [each grandparent,] parent, [brother, sister, niece, nephew, aunt, uncle], or child [and grandchild] of a person;

(25) "Relative within the second degree by consanguinity or affinity", a spouse, parent, child, grandparent, brother, sister, grandchild, mother-in-law, father-in-law, daughter-in-law, or son-in-law;

[(24)] (26) "Special district", any school district, water district, fire protection district, hospital district, health center, nursing district, or other districts with taxing authority, or other district formed pursuant to the laws of Missouri to provide limited, specific services;

[(25)] (27) "Special election", elections called by any school district, water district, fire protection district, or other district formed pursuant to the laws of Missouri to provide limited, specific services; and

[(26)] (28) "Voting district", the one or more precincts within which all voters vote at a single polling place for any election.

115.074. VOTING PROCESS AND EQUIPMENT, GRANTS TO UPGRADE OR IMPROVE, AWARD PROCEDURE — RULEMAKING AUTHORITY. — 1. Subject to appropriation from federal funds, the secretary of state shall administer a grant program annually for the purposes of providing funds to election authorities to upgrade or improve the voting process or equipment. Such funding shall be in the form of matching grants. The secretary of state when awarding grants shall give priority to jurisdictions which have the highest number of residents according to the most recent federal census, with an income

below the federal poverty level as established by the federal department of health and human services or its successor agency. The secretary of state may promulgate rules to effectuate the provisions of this section.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.076. ADMINISTRATION OF GRANT PROGRAM — RULEMAKING AUTHORITY. — 1. Subject to appropriation of federal funds, the secretary of state shall administer a grant program annually for the purpose of providing funds to election authorities:

(1) To purchase electronic voting machines that are accessible to all individuals with disabilities, including people who are blind or visually impaired;

(2) To make polling places, including path of travel, entrances, exits and voting areas of each polling facility accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and secret, independent and verifiable participation, including privacy and independence, as for other voters;

(3) To provide individuals with disabilities and individuals who are blind and visually impaired with information about the accessibility of polling places, including outreach programs to inform individuals about the availability of accessible polling places and to train election officials, poll workers, and election volunteers on how to best promote the access and participation of individuals in elections, and to provide assistance in all accommodations needed by voters with disabilities.

Such funding shall be in the form of matching grants. The secretary of state when awarding grants shall give priority to jurisdictions which have the highest number of residents according to the most recent federal census, with an income below the federal poverty level as established by the federal department of health and human services or its successor agency. The secretary of state may promulgate rules to effectuate the provisions of this section.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.081. NUMBER OF JUDGES TO BE APPOINTED, SUPERVISORY JUDGES, DUTIES OF. —

1. Each election authority shall appoint [at least four] election judges for each polling place within its jurisdiction **in accordance with the provisions of this section**. [If the expected voter turnout at a polling place indicates that four judges may be insufficient, the election authority may appoint an even number of additional judges for the polling place. One-half of the judges at each polling place shall be members of one major political party, and one-half of the judges at each polling place shall be members of the other major political party.]

2. **In all primary and general elections, the election authority shall appoint at least two judges from each major political party to serve at each polling place. No major**

political party shall have a majority of the judges at any polling place. No established party shall have a greater number of judges at any polling place than any major political party.

3. In any election that is not a primary or general election, the election authority shall appoint at least one judge from each major political party to serve at each polling place. No major political party shall have a majority of the judges at any polling place. No established party shall have a greater number of judges at any polling place than any major political party.

[2.] **4.** The election authority shall designate two of the judges appointed for each polling place, one from each major political party, as supervisory judges. Supervisory judges shall be responsible for the return of election supplies from the polling place to the election authority and shall have any additional duties prescribed by the election authority.

[3.] **5.** Election judges may be employed to serve for the first half or last half of any election day. Such judges shall be paid one-half the regular rate of pay. If part-time judges are employed, the election authority shall employ such judges and shall see that a sufficient number for each period are present at all times so as to have the proper total number of judges present at each polling place throughout each election day. The election authority shall require that at each polling place at least one election judge from each political party serve a full day and that at all times during the day there be an equal number of election judges from each political party.

6. An election authority may appoint additional election judges representing other established political parties and additional election judges who do not claim a political affiliation. Any question which requires a decision by the majority of judges shall only be made by the judges from the major political parties.

115.085. QUALIFICATIONS OF ELECTION JUDGES. — No person shall be appointed to serve as an election judge who is not a registered voter in the jurisdiction of the election authority for which he or she is appointed. Each election judge shall be a person of good repute and character who can speak, read and write the English language. No person shall serve as an election judge at any polling place in which his or her name or the name of a relative within the second degree, by consanguinity or affinity, appears on the ballot. However, no relative of any unopposed candidate shall be disqualified from serving as an election judge in any election jurisdiction of the state. No election judge shall, during his or her term of office, hold any other public office, other than as a member of a political party committee or township office, except any person who is an employee of the state of Missouri or who is appointed to or employed by **or elected to** a board or commission of a political subdivision or special district may serve as an election judge except at a polling place where such political subdivision or special district has an issue or candidate on the ballot. In any county having a population of less than two hundred fifty thousand inhabitants, any candidate for the county committee of a political party who is not a candidate for any other office and who is unopposed for election as a member of the committee shall not be disqualified from serving as an election judge.

115.087. SELECTION OF JUDGES IN COUNTIES NOT HAVING A BOARD OF ELECTION COMMISSIONERS. — **1.** In each county which does not have a board of election commissioners, the election judges shall be selected from lists provided by the county committee of each major political party **or as authorized pursuant to section 115.081.** Not later than December tenth in each year in which county committeemen are elected, the county committee of each major political party shall submit to the [county clerk] **election authority** a list of persons qualified to serve as election judges in double the number required to hold a general election in the county. [Not later than February tenth in each year immediately following the year in which county committeemen are elected, each county clerk] **For each election, the election authority** shall select and appoint the number of judges required to hold [a general] **the election** [in his county, taking one-half of the judges from each of the lists]. If a county committee fails to present the

prescribed number of names of qualified persons by the time prescribed, the [county clerk] **election authority** may select and appoint the number of judges provided by law for the county committee's party. If the [county clerk] **election authority** deems any person on a list to be unqualified, [he] **the election authority** may request the county committee which submitted the list to furnish another name. [The election judges shall be appointed for a term ending on February tenth in the year immediately following the year in which county committeemen are next elected and until their successors are appointed and qualified.]

2. The state chairperson of each established political party may, in jurisdictions where no county committee exists and where the county clerk is the election authority, submit a list of persons qualified to serve as election judges to the county clerk. The county clerk may select and appoint additional judges from such list pursuant to section 115.081.

3. County clerks may compile a list of persons who claim no political affiliation and who volunteer to be election judges. A county clerk may select and appoint additional judges from such list pursuant to section 115.081.

115.089. TERMS OF ELECTION JUDGES APPOINTED BY BOARD. — Each board of election commissioners shall have authority to appoint election judges for individual elections, or for a term coincident with the term of the board and until the judges' successors are appointed and qualified. The board may ask the county committee of each major political party to submit a list of persons qualified to serve as election judges and may select and appoint judges from the lists. **The board may compile a list of persons who claim no political affiliation and who volunteer to be election judges and may select and appoint judges from the list.**

115.095. JUDGE FAILING TO APPEAR, TEMPORARY JUDGE TO BE APPOINTED, HOW. — If any judge fails to act or to appear by the time fixed by law for the opening of the polls, the election authority shall be notified immediately by an election judge. The election authority or the election judges present in the polling place shall appoint another judge from the same political party as the judge failing to act or to appear. If the election judges elect a qualified temporary judge, [he] **such judge** shall have full authority to act as judge for the election, except that [he] **such judge** may be removed at any time by the election authority and replaced with another qualified judge from the same political party as the removed judge. **Any judge selected pursuant to this section shall be selected to ensure that no political party shall have a majority of judges at any polling place and that each major political party has at least one judge serving at the polling place.**

115.097. JUDGE NOT TO BE ABSENT FROM POLLS MORE THAN ONE HOUR — NOT MORE THAN ONE JUDGE FROM THE SAME PARTY TO BE ABSENT AT THE SAME TIME. — No election judge shall be absent from the polls for more than one hour during the hours the polls are open on election day. No election judge shall be absent from the polls before 9:00 a.m. or after 5:00 p.m. on election day. No more than one judge from the same **major** political party shall be absent from the polls at the same time on election day.

115.098. ELECTION JUDGES, GRANT PROGRAM TO INCREASE COMPENSATION, REQUIREMENTS — RULEMAKING AUTHORITY. — **1. Subject to appropriation from federal funds, the secretary of state shall administer a grant program for the purpose of increasing the compensation of election judges. Such funding shall be made available to election authorities contingent upon the election authority increasing the compensation of election judges to an amount not less than seven dollars per hour. Such funding shall be in the form of matching grants. The secretary of state when awarding grants shall give priority to jurisdictions which have the highest number of residents according to the most recent federal census, with an income below the federal poverty level as established by the**

federal department of health and human services or its successor agency. The secretary of state may promulgate rules to effectuate the provisions of this section.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.099. AUTHORITY TO SUPERVISE JUDGES. — Each election authority shall have authority to direct judges in their duties and to compel compliance with the law. Each election authority may substitute judges at his discretion on election day. Each election authority shall also have authority at any time to remove any judge for good cause and to replace [him] the judge with a qualified person from the same political party as the removed judge. **Any judge selected pursuant to this section shall be selected to ensure that no political party shall have a majority of judges at any polling place and that each major political party has at least one judge serving at the polling place.**

115.101. JUDGES' COMPENSATION, HOW SET — NOT EMPLOYEES OF ELECTION AUTHORITY. — For service in conducting elections and house-to-house canvasses, each election judge shall be paid [a specific dollar amount which shall be set by the legislative authority of each county and by any city not within a county] **an amount established by the election authority.** For purposes of this section, and the Constitution of Missouri, election judges appointed by the election authority shall not be considered employees of the election authority.

115.102. ELECTION JUDGE, SERVICE AS, EMPLOYER NOT TO DISCRIMINATE AGAINST — VIOLATION, PENALTY. — **1. An employer shall not terminate, discipline, threaten or take adverse actions against an employee based on the employee's service as an election judge.**

2. An employee who is appointed to serve as an election judge may, on election day, be absent from his or her employment for the period of time that the election authority requires the employee to serve as election judge. Employees must notify employers at least seven days prior to an election that they will be absent from work on election day due to service as an election judge.

3. An employee discharged in violation of this section may bring a civil action against the employer within ninety days of discharge for recovery of lost wages and other damages caused by the violation and for an order directing reinstatement of the employee. If the employee prevails, the employee shall be entitled to receive reasonable attorney's fees and costs.

115.123. PUBLIC ELECTIONS TO BE HELD ON CERTAIN TUESDAYS, EXCEPTIONS — PRESIDENTIAL PRIMARY, WHEN HELD — EXEMPTIONS. — 1. All public elections shall be held on Tuesday. Except as provided in subsections 2, 3, **and 4** [and 5] of this section, and section 247.180, RSMo, all public elections shall be held on the general election day, the primary election day, the general municipal election day, the first Tuesday after the first Monday in February or November, or on another day expressly provided by city or county charter, **the first Tuesday after the first Monday in June and in nonprimary years on the first Tuesday after the first Monday in August.**

2. Notwithstanding the provisions of subsection 1 of this section, an election for a presidential primary held pursuant to sections 115.755 to 115.785 shall be held on the first Tuesday after the first Monday in March of each presidential election year.

3. [Notwithstanding the provisions of subsection 1 of this section, school districts may hold elections on the first Tuesday after the first Monday in June and in nonprimary years on the first Tuesday after the first Monday in August, and municipalities may hold elections in nonprimary years on the first Tuesday after the first Monday in August.

4.] The following elections shall be exempt from the provisions of subsection 1 of this section:

- (1) Bond elections necessitated by fire, vandalism or natural disaster;
- (2) Elections for which ownership of real property is required by law for voting; and
- (3) Special elections to fill vacancies and to decide tie votes or election contests.

[5.] 4. No city or county shall adopt a charter or charter amendment which calls for elections to be held on dates other than those established in subsection 1 of this section.

[6.] 5. Nothing in this section prohibits a charter city or county from having its primary election in March if the charter provided for a March primary before August 28, 1999.

[7.] 6. Nothing in this section shall prohibit elections held pursuant to section 65.600, RSMo, but no other issues shall be on the March ballot except pursuant to this chapter.

115.126. ADVANCE VOTING PERIOD, ELECTION AUTHORITIES TO ESTABLISH PLAN TO IMPLEMENT, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. Notwithstanding any provision of this chapter to the contrary, election authorities shall establish a plan to implement an advance voting period when eligible registered voters may vote before any general election in presidential election years at the office of the election authority and up to four other polling places designated by and under the control of the election authority. Such plan shall provide that the permissible advance voting period shall begin fourteen days prior to such election and end at 5:00 p.m. on the Wednesday before the day of such election.

2. Election authorities shall, pursuant to subsection 1 of this section, establish in their plans the hours and locations for advance voting. The election authority shall have all advance voting locations open on all business days during the advance voting period, and may have all advance voting locations open on Saturdays, Sundays and holidays during the advance voting period.

3. Except as provided in this section, advance voting procedures shall be conducted pursuant to sections 115.407 to 115.445. The secretary of state shall design the necessary application for use in an advance voting program pursuant to this section. All election authorities in this state shall submit to the secretary of state a plan to implement the advance voting period by December 31, 2002. The secretary of state shall assist election authorities in developing a plan for the implementation of an advance voting program.

4. The plans established pursuant to this section shall also require that before the precinct registers are delivered to the polling places for an election, the election authority shall record in the precinct registers the names of all voters who have submitted an advance voting ballot. The election judge shall not allow any person who has voted an advance voting ballot in the election to vote at the polls on election day. If it is determined that any voter submitted an advance voting ballot and voted at the polls on election day, such person, having voted more than once, is guilty of a class one election offense pursuant to subdivision (2) of section 115.631.

5. The secretary of state may promulgate rules to effectuate 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.

115.127. NOTICE OF ELECTION, HOW, WHEN GIVEN — STRIKING NAMES OR ISSUES FROM BALLOT, REQUIREMENTS — DECLARATION OF CANDIDACY, OFFICERS FOR POLITICAL SUBDIVISIONS OR SPECIAL ELECTIONS, FILING DATE, WHEN, NOTICE REQUIREMENTS — CANDIDATE WITHDRAWING, BALLOT REPRINTING, COST, HOW PAID. — 1. Except as provided in subsection 4 of this section, upon receipt of notice of a special election to fill a vacancy submitted pursuant to section 115.125, the election authority shall cause legal notice of the special election to be published in a newspaper of general circulation in its jurisdiction. The notice shall include the name of the officer or agency calling the election, the date and time of the election, the name of the office to be filled and the date by which candidates must be selected or filed for the office. Within one week prior to each special election to fill a vacancy held in its jurisdiction, the election authority shall cause legal notice of the election to be published in two newspapers of different political faith and general circulation in the jurisdiction. The legal notice shall include the date and time of the election, the name of the officer or agency calling the election and a sample ballot. If there is only one newspaper of general circulation in the jurisdiction, the notice shall be published in the newspaper within one week prior to the election. If there are two or more newspapers of general circulation in the jurisdiction, but no two of opposite political faith, the notice shall be published in any two of the newspapers within one week prior to the election.

2. Except as provided in subsections 1 and 4 of this section and in sections 115.521, 115.549 and 115.593, the election authority shall cause legal notice of each election held in its jurisdiction to be published. The notice shall be published in two newspapers of different political faith and qualified pursuant to chapter 493, RSMo, which are published within the bounds of the area holding the election. If there is only one so qualified newspaper, then notice shall be published in only one newspaper. If there is no newspaper published within the bounds of the election area, then the notice shall be published in two qualified newspapers of different political faith serving the area. Notice shall be published twice, the first publication occurring in the second week prior to the election, and the second publication occurring within one week prior to the election. Each such legal notice shall include the date and time of the election, the name of the officer or agency calling the election and a sample ballot; and, unless notice has been given as provided by section 115.129, the second publication of notice of the election shall include the location of polling places. The election authority may provide any additional notice of the election it deems desirable.

3. The election authority shall print the official ballot as the same appears on the sample ballot, and no candidate's name or ballot issue which appears on the sample ballot or official printed ballot shall be stricken or removed from the ballot except on death of a candidate or by court order.

4. In lieu of causing legal notice to be published in accordance with any of the provisions of this chapter, the election authority in jurisdictions which have less than [five hundred] **seven hundred fifty** registered voters and in which no newspaper qualified pursuant to chapter 493, RSMo, is published, may cause legal notice to be mailed during the second week prior to the election, by first class mail, to each registered voter at [his] **the voter's** voting address. All such legal notices shall include the date and time of the election, the location of the polling place, the name of the officer or agency calling the election and a sample ballot.

5. If the opening date for filing a declaration of candidacy for any office in a political subdivision or special district is not required by law or charter, the opening filing date shall be 8:00 a.m., the fifteenth Tuesday prior to the election. If the closing date for filing a declaration of candidacy for any office in a political subdivision or special district is not required by law or charter, the closing filing date shall be 5:00 p.m., the eleventh Tuesday prior to the election. The political subdivision or special district calling an election shall, before the fifteenth Tuesday prior

to any election at which offices are to be filled, notify the general public of the opening filing date, the office or offices to be filled, the proper place for filing and the closing filing date of the election. Such notification may be accomplished by legal notice published in at least one newspaper of general circulation in the political subdivision or special district.

6. Except as provided for in sections 115.247 and 115.359, if there is no additional cost for the printing or reprinting of ballots or if the candidate agrees to pay any printing or reprinting costs, a candidate who has filed for an office or who has been duly nominated for an office, may, at any time after the certification required in section 115.125 but no later than 5:00 p.m. on the sixth Tuesday before the election, withdraw as a candidate pursuant to a court order, which, except for good cause shown by the election authority in opposition thereto, shall be freely given upon application by the candidate to the circuit court of the area of such candidate's residence.

115.133. QUALIFICATIONS OF VOTERS. — 1. Except as provided in subsection 2 of this section, any citizen of the United States who is a resident of the state of Missouri and seventeen years and six months of age or older shall be entitled to register and to vote in any election which is held on or after his eighteenth birthday.

2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote:

- (1) While confined under a sentence of imprisonment;
- (2) While on probation or parole after conviction of a felony, until finally discharged from such probation or parole; or
- (3) After conviction of a felony or misdemeanor connected with the right of suffrage.

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote, unless the voter is an intrastate new resident or an interstate new resident, as defined in section 115.275.

115.135. PERSONS ENTITLED TO REGISTER, WHEN — IDENTIFICATION REQUIRED. —

1. Any person who is qualified to vote, or who shall become qualified to vote on or before the day of election, shall be entitled to register in the jurisdiction within which he or she resides. In order to vote in any election for which registration is required, a person must be registered **to vote in the jurisdiction of his or her residence** no later than 5:00 p.m., or the normal closing time of any public building where the registration is being held if such time is later than 5:00 p.m., on the fourth Wednesday prior to the election, **unless the voter is an intrastate new resident or an interstate new resident, as defined in section 115.275.** In no case shall registration for an election extend beyond 10:00 p.m. on the fourth Wednesday prior to the election. Any person registering after such date shall be eligible to vote in subsequent elections.

2. A person applying to register with an election authority or a deputy registration official shall present a valid Missouri drivers license or other form of personal identification at the time of registration.

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote, unless the voter is an intrastate new resident or an interstate new resident, as defined in section 115.275.

115.137. REGISTERED VOTERS MAY VOTE IN ALL ELECTIONS — EXCEPTION. — 1. Except as provided in subsection 2 of this section, any citizen who is entitled to register and vote shall be entitled to register for and vote **pursuant to the provisions of this chapter** in all statewide public elections and all public elections held for districts and political subdivisions within which he resides.

2. Any person who and only persons who fulfill the ownership requirements shall be entitled to vote in elections for which ownership of real property is required by law for voting.

115.151. REGISTRATION COMPLETE, WHEN. — 1. Each qualified applicant who appears before the election authority shall be deemed registered as of the time the applicant's completed, signed and sworn registration application is witnessed by the election authority or deputy registration official.

2. Each applicant who registers by mail shall be deemed to be registered as of the date the application is postmarked, if such application is accepted and not rejected by the election authority and the verification notice required pursuant to section 115.155 is not returned as undeliverable by the postal service.

3. Each applicant who registers at a voter registration agency or the division of motor vehicle and drivers licensing of the department of revenue shall be deemed to be registered as of the date the application is signed by the applicant, if such application is accepted and not rejected by the election authority and the verification notice required pursuant to section 115.155 is not returned as undeliverable by the postal service. **Voter registration agencies and the division of motor vehicle and drivers licensing of the department of revenue shall transmit voter registration application forms to the appropriate election authority not later than five business days after the form is completed by the applicant.**

115.157. REGISTRATION INFORMATION MAY BE COMPUTERIZED, INFORMATION REQUIRED — VOTER LISTS MAY BE SOLD — CANDIDATES MAY RECEIVE LIST FOR REASONABLE FEE — COMPUTERIZED REGISTRATION SYSTEM, REQUIREMENTS — VOTER HISTORY AND INFORMATION, HOW ENTERED, WHEN RELEASED — RECORDS CLOSED, WHEN.

— **1.** The election authority may place all information on any registration cards in computerized form in accordance with subsection 2 of section 115.158. No election authority or secretary of state shall furnish to any member of the public electronic media or printout showing any registration information, except as provided in this section. **Except as provided in subsection 2 of this section,** the election authority or secretary of state shall make available electronic media or printouts showing unique voter identification numbers, voters' names, dates of birth, addresses, townships or wards, and precincts. Electronic data shall be maintained in at least the following separate fields:

- (1) Voter identification number;
- (2) First name;
- (3) Middle initial;
- (4) Last name;
- (5) Suffix;
- (6) Street number;
- (7) Street direction;
- (8) Street name;
- (9) Street suffix;
- (10) Apartment number;
- (11) City;
- (12) State;
- (13) Zip code;
- (14) Township;
- (15) Ward;
- (16) Precinct;
- (17) Senatorial district;
- (18) Representative district;
- (19) Congressional district.

All election authorities shall enter voter history in their computerized registration systems and shall, not more than six months after the election, forward such data to the centralized voter registration system established in section 115.158. **Except as provided in subsection 2 of this section,** the election authority shall also furnish, for a fee, electronic media or a printout showing

the names, dates of birth and addresses of voters, or any part thereof, within the jurisdiction of the election authority who voted in any specific election, including primary elections, by township, ward or precinct, provided that nothing in this chapter shall require such voter information to be released to the public over the Internet. The amount of fees charged for information provided in this section shall be established pursuant to chapter 610, RSMo. All revenues collected by the secretary of state pursuant to this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account established pursuant to section 28.160, RSMo. In even-numbered years, each election authority shall, upon request, supply the voter registration list for its jurisdiction to all candidates and party committees for a charge established pursuant to chapter 610, RSMo. **Except as provided in subsection 2 of this section,** all election authorities shall make the information described in this section available pursuant to chapter 610, RSMo. Any election authority who fails to comply with the requirements of this section shall be subject to the provisions of chapter 610, RSMo.

2. Any person working as an undercover officer of a local, state or federal law enforcement agency, persons in witness protection programs, and victims of domestic violence and abuse who have received orders of protection pursuant to chapter 455, RSMo, shall be entitled to apply to the circuit court having jurisdiction in his or her county of residence to have the residential address on his or her voter registration records closed to the public if the release of such information could endanger the safety of the person. Any person working as an undercover agent or in a witness protection program shall also submit a statement from the chief executive officer, as defined in subsection 2 of section 590.100, RSMo, of the agency under whose direction he or she is serving. The petition to close the residential address shall be incorporated into any petition for protective order provided by circuit clerks pursuant to chapter 455, RSMo. If satisfied that the person filing the petition meets the qualifications of this subsection, the circuit court shall issue an order to the election authority to keep the residential address of the voter a closed record and the address may be used only for the purposes of administering elections pursuant to this chapter. The election authority may require the voter who has a closed residential address record to verify that his or her residential address has not changed or to file a change of address and to affirm that the reasons contained in the original petition are still accurate prior to receiving a ballot. A change of address within an election authority's jurisdiction shall not require that the voter file a new petition. Any voter who no longer qualifies pursuant to this subsection to have his or her residential address as a closed record shall notify the circuit court. Upon such notification, the circuit court shall void the order closing the residential address and so notify the election authority.

115.159. REGISTRATION BY MAIL, VOTER I.D. CARD DELIVERED TO VOTER, WHEN — DELIVERY OF ABSENTEE BALLOTS, WHEN. — 1. Any person who is qualified to register in Missouri shall, upon application, be entitled to register by mail. Upon request, application forms shall be furnished by the election authority or the secretary of state.

2. Notwithstanding any provision of law to the contrary, the election authority shall not deliver any voter identification card to any person who registers to vote by mail until after such person has voted, in person, after presentation of a proper form of identification, for the first time following registration at his new polling place designated by the election authority.

3. Notwithstanding any provision of law to the contrary, the election authority shall not deliver any absentee ballot to any person who registers to vote by mail until after such person has:

(1) Voted, in person, after presentation of a proper form of identification set out in section 115.427, for the first time following registration; or

(2) Provided a copy of identification set out in section 115.427 to the election authority.

This subsection shall not apply to those persons identified in section 115.283 who are exempted from obtaining a notary seal or signature on their absentee ballots.

115.160. DRIVER'S LICENSE APPLICANTS TO RECEIVE VOTER REGISTRATION APPLICATION, CONTENTS — RULES — FORWARDING OF APPLICATION TO ELECTION AUTHORITY, WHEN. — 1. All Missouri driver's license applicants shall receive a voter registration application form as a simultaneous part of the application for a driver's license, renewal of driver's license, change of address, duplicate request and a nondriver's license.

2. If a single application form is used, the voter registration application portion of any application described in subsection 1 of this section may not require any information that duplicates information required in the driver's license portion of the form, except a second signature or other information required by law.

3. After conferring with the secretary of state as the chief state election official responsible for overseeing of the voter registration process, the director of revenue shall adopt rules and regulations pertaining to the format of the voter registration application used by the department.

4. No information relating to the failure of an applicant for a driver's license or nondriver's license to sign a voter registration application may be used for any purpose other than voter registration.

5. Any voter registration application received pursuant to the provisions of this section shall be forwarded to the election authority located within that county or any city not within a county, or if there is more than one election authority within the county, then to the election authority located nearest to the location where the driver's license application was received. The election authority receiving the application forms shall review the applications and forward any applications pertaining to a different election authority to that election authority.

6. A completed voter registration application accepted in the driver's licensing process shall be transmitted to the election authority described in subsection 5 of this section [not later than ten days after the date of acceptance or if the voter registration application is accepted within five days before the last day for registration to vote in an election, the application shall be transmitted to the election authority described in subsection 5 of this section] not later than five **business** days after the [date of acceptance] **form is completed by the applicant.**

115.162. SECRETARY OF STATE TO PROVIDE VOTER REGISTRATION APPLICATIONS AT CERTAIN PUBLIC OFFICES — DUTIES OF VOTER REGISTRATION AGENCY — DECLINATION OF REGISTRATION. — 1. A voter registration application shall be provided by the secretary of state in all offices of the state that provide public assistance, all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, and other offices as directed by the governor. In addition all armed forces recruitment offices shall be considered a voter registration agency.

2. At each voter registration agency, the following services shall be made available:

(1) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance;

(2) Acceptance of completed voter registration application forms for transmittal to the election authority located in the same county or any city not within a county, or if there is more than one election authority within the county, to the election authority nearest to the office of the agency. The election authority receiving the application forms shall review the applications and forward any applications pertaining to a different election authority to that election authority]. Forms shall be transmitted as soon as possible and according to dates established by the state election authority];

(3) Voter registration sites shall transmit voter registration application forms to the appropriate election authority not later than five business days after the form is completed by the applicant;

[3] (4) If a voter registration agency provides services to a person with a disability at the person's home, the agency shall provide the services provided in this section at the person's home.

3. An applicant declining to register in any agency shall be noted in a declination section incorporated into the voter registration form used by the agency. No information relating to a declination to register to vote in connection with an application made at a voter registration agency may be used for any purpose other than voter registration.

[4. Subject to the approval of the secretary of state, the voter registration agency shall adopt rules and regulations pertaining to the format of a voter registration application to be used by that agency.]

115.163. PRECINCT REGISTER REQUIRED—COMPUTER OR BINDER LISTS AUTHORIZED — COMPUTER I.D. CARDS, PROCEDURES AND USES — LIST OF REGISTERED VOTERS AVAILABLE, FEE. — 1. Each election authority shall arrange one set of registration cards into permanent binders for each precinct, or it may authorize the creation of computerized lists for each precinct. The computerized lists or binder shall be arranged alphabetically or by street address as the election authority determines and shall be known as the "precinct register". At least one set of registration cards shall be arranged in a central file in such a manner as the election authority determines, and shall be known as the "headquarters register". The election authority shall be the custodian of the registration records, and no cards or records shall be removed or handled except at its direction and under its supervision. The precinct registers shall be kept by the election authority in a secure place, except when given to election judges for use at an election. **Except as provided in subsection 2 of section 115.157**, all registration records shall be open to inspection by the public at all reasonable times.

2. In counties using computer printouts as precinct registers, a new computer printout shall be printed prior to each election.

3. In those counties using computer printouts as precinct registers, the election authority shall send to each voter a voter identification card [not less] **no later** than ninety days prior to the **date of a primary** [election in each year in which a primary and] **or general election** [will be held] **for federal office**, unless the voter has received such a card during the preceding six months. The voter identification card shall contain the voter's name, address, precinct and a signature line. The card may also contain other voting information at the discretion of the election authority. The voter shall be instructed to sign the card for use as identification at the polls. The voter identification card shall be sent to a voter after a new registration or a change of address. If any voter shall lose his voter identification card he may request a new one from the election authority. The voter identification card authorized pursuant to this section may be used as a canvass of voters in lieu of the provisions set out in sections 115.179 to 115.193. **Except as provided in subsection 2 of section 115.157**, anyone, upon request and payment of a reasonable fee, may obtain a printout, list and/or computer tape of those newly registered voters or voters deleted from the voting rolls, since the last canvass or updating of the rolls. **The election authority may authorize the use of the postal service contractors under the federal National Change of Address program to identify those voters whose address is not correct on the voter registration records. The election authority shall not be required to mail a voter registration card to those voters whose addresses are incorrect. Confirmation notices to such voters required by section 115.193 shall be sent to the corrected address provided by the National Change of Address program.**

115.179. REGISTRATION RECORDS TO BE CANVASSED, WHEN. — 1. [In each jurisdiction with a board of election commissioners, the board of election commissioners] **The election authority** shall have the registration records of all precincts in its jurisdiction canvassed every [four] **two years in accordance with subsection 3 of section 115.163** and that it be completed no later than ninety days prior to the date of a primary or general election for federal office. **The**

election authority may utilize postal service contractors under the federal National Change of Address program to canvass the records.

2. In each jurisdiction without a board of election commissioners, the county clerk shall have the registration records of all precincts in its jurisdiction canvassed every [four] **two** years **in accordance with subsection 3 of section 115.163** and that it be completed no later than ninety days prior to the date of a primary or general election for federal office.

115.195. DEATH, FELONY, AND MISDEMEANOR CONVICTIONS, PERSONS ADJUDGED INCAPACITATED—RECORDS, WHEN OBTAINED. — 1. At least once each month, the [election authority shall obtain from the] state or local registrar of vital statistics[,] **shall provide to the election authority** a list of the name and address, if known, of each person over eighteen years of age in its jurisdiction whose death has been reported to him or her **and provide a copy of the list of any death reported in the state to the secretary of state. The secretary of state shall notify the election authority of the jurisdiction in which the deceased resided of the information received pursuant to this subsection.**

2. At least once each month, the [election authority shall obtain from the] clerk of the circuit court **of each county and city not within a county shall provide to the election authority a list** of the name and address, if known, of each person over eighteen years of age in [its] **the court's** jurisdiction who has been convicted of any felony, or of a misdemeanor connected with the right of suffrage. **A copy of the list shall also be submitted to the secretary of state. The secretary of state shall notify the election authority of the jurisdiction in which an offender resides of the information received pursuant to this subsection.**

3. At least once each month, the [election authority shall obtain from the] clerk of the probate division of the circuit court **of each county and city not within a county shall provide to the election authority a list** of the name and address, if known, of each person over eighteen years of age in [its] **the court's** jurisdiction who has been adjudged incapacitated and has not been restored to capacity. **A copy of the list shall also be submitted to the secretary of state. The secretary of state shall notify the election authority of the jurisdiction in which such person resides of the information received pursuant to this subsection.**

4. All state and local registrars and all clerks of probate divisions of the circuit courts and circuit courts shall provide the information specified in this section, without charge, [when requested by an] **to the election authority or the secretary of state.**

115.225. AUTOMATED EQUIPMENT TO BE APPROVED BY SECRETARY OF STATE — STANDARDS TO BE MET — RULES, PROMULGATION, PROCEDURE. — 1. Before use by election authorities in this state, the secretary of state shall approve the marking devices and the automatic tabulating equipment used in electronic voting systems and may promulgate rules and regulations to implement the intent of sections 115.225 to 115.235.

2. No electronic voting system shall be approved unless it:

- (1) Permits voting in absolute secrecy;
 - (2) Permits each voter to vote for as many candidates for each office as [he] **a voter** is lawfully entitled to vote for;
 - (3) Permits each voter to vote for or against as many questions as [he] **a voter** is lawfully entitled to vote on, and no more;
 - (4) Provides facilities for each voter to cast as many write-in votes for each office as [he] **a voter** is lawfully entitled to cast;
 - (5) Permits each voter at a general election to vote for all candidates of one party by one punch or mark or to vote a split ticket, as [he] **a voter** desires;
 - (6) Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance;
-

(7) Permits each voter at a presidential election to vote by use of a single punch or mark for the candidates of one party or group of petitioners for president, vice president and their presidential electors;

(8) Accurately counts all proper votes cast for each candidate and for and against each question;

(9) Is set to reject all votes, except write-in votes, for any office and on any question when the number of votes exceeds the number a voter is lawfully entitled to cast;

(10) Permits each voter, while voting, to clearly see the ballot label;

(11) Has been tested and is certified by an independent authority that meets the voting system standards developed by the Federal Election Commission or its successor agency. The provisions of this subdivision shall not be required for any system purchased prior to August 28, 2002.

3. [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.] **The secretary of state shall promulgate rules and regulations to allow the use of a computerized voting system. The procedures shall provide for the use of a computerized voting system with the ability to provide a paper audit trail. Notwithstanding any provisions of this chapter to the contrary, such a system may allow for the storage of processed ballot materials in an electronic form.**

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.**

115.233. TESTING OF AUTOMATIC TABULATING EQUIPMENT, WHEN DONE, PROCEDURE.

— Within [five] **fourteen** days prior to an election at which an electronic voting system is to be used, the election authority shall have the automatic tabulating equipment tested to ascertain that the equipment is in compliance with the law and that it will correctly count the votes cast for all offices and on all questions. At least forty-eight hours prior to the test, notice of the time and place of the test shall be mailed to each independent and new party candidate and the chairman of the county committee of each established political party named on the ballot. The test shall be observed by at least two persons designated by the election authority, one from each major political party, and shall be open to representatives of the political parties, candidates, the news media and the public. The test shall be conducted by processing a preaudited group of ballots. If any error is detected, the cause shall be ascertained and corrected, and an errorless count shall be made before the tabulating equipment is approved.

115.237. BALLOTS, CONTENTS OF—FORM OF—RULEMAKING AUTHORITY.—

1. Each ballot printed or **designed for use with an electronic voting system** for any election [under the provisions of sections 115.001 to 115.641] **pursuant to this chapter** shall contain all questions and the names of all offices and candidates certified or filed pursuant to [sections 115.001 to 115.641] **this chapter** and no other. As far as practicable, all questions and the names of all offices and candidates for which each voter is entitled to vote shall be printed on one page except for the ballot for political party committee persons in polling places not utilizing an electronic voting system which may be printed separately and in conformity with the requirements contained in this section. As far as practicable, ballots containing only questions and the names of nonpartisan offices and candidates shall be printed in accordance with the provisions of this

section, except that the ballot information may be listed in vertical or horizontal rows. The names of candidates for each office shall be listed in the order in which they are filed.

2. **Except as provided in subsection 4 of this section**, each ballot shall [be plain paper, through which printing or writing cannot be read, and shall] have:

- (1) Each party name printed in capital letters not less than eighteen point in size;
- (2) A circle one-half inch in diameter immediately below each party name;
- (3) The name of each office printed in capital letters not less than eight point in size;
- (4) The name of each candidate printed in capital letters not less than ten point in size;
- (5) A small square, the sides of which shall not be less than one-fourth inch in length, printed directly to the left of each candidate's name and on the same line as the candidate's name.

When write-in votes are authorized and no candidate's name is to be printed under the name of an office in a party or nonpartisan column, under the name of the office in the column shall be printed a square. Directly to the right of the square shall be printed a horizontal line on which the voter may vote for a person whose name does not appear on the ballot. When more than one position is to be filled for an office, and the number of candidates' names under the office in a column is less than the number of positions to be filled, the number of squares and write-in lines printed in the column shall equal the difference between the number of candidates' names and the number of positions to be filled;

(6) The list of candidates of each party and all nonpartisan candidates placed in separate columns with a heavy vertical line between each list;

(7) A horizontal line extending across the ballot three-eighths of an inch below the last name or write-in line under each office in such a manner that the names of all candidates and all write-in lines for the same office appear between the same horizontal lines. If write-in votes are not authorized, the horizontal line shall extend across the ballot three-eighths of an inch below the name of the last candidate under each office;

(8) In a separate column or beneath a heavy horizontal line under all names and write-in lines, all questions;

(9) At least three-eighths of an inch below all other matter on the ballot, printed in ten point Gothic type, the words "Instructions to Voters" followed by directions to the voter on marking [his] the ballot as provided in section 115.439;

(10) Printed at the top on the face of the ballot the words "Official Ballot" followed by the date of the election and the statement "Instruction to Voters: Place an X in the square opposite the name of the person for whom you wish to vote."

3. As nearly as practicable, each ballot shall be in substantially the following form:

OFFICIAL BALLOT

DATE

REPUBLICAN <input type="radio"/> For President and Vice President <input type="checkbox"/>	DEMOCRATIC <input type="radio"/> For President and Vice President <input type="checkbox"/>	THIRD PARTY <input type="radio"/> For President and Vice President <input type="checkbox"/>	INDEPENDENT <input type="radio"/> For President and Vice President <input type="checkbox"/>
For United States Senator <input type="checkbox"/>	For United States Senator <input type="checkbox"/>	For United States Senator <input type="checkbox"/>	For United States Senator <input type="checkbox"/>

For Governor <input type="checkbox"/>			
For Lieutenant Governor <input type="checkbox"/>			
For Secretary of State <input type="checkbox"/>			
For Treasurer <input type="checkbox"/>			
For Attorney General <input type="checkbox"/>			
For United States Representative <input type="checkbox"/>			
For State Senator <input type="checkbox"/>			
For State Representative <input type="checkbox"/>			
For Circuit Judge <input type="checkbox"/>			

4. The secretary of state shall promulgate rules that specify uniform standards for ballot layout for each electronic or computerized ballot counting system approved under the provisions of 115.225 so that the ballot used with any counting system is, where possible, consistent with the intent of this section. Nothing in this section shall be construed to require the format specified in this section if it does not meet the requirements of the ballot counting system used by the election authority.

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.

115.277. PERSONS ELIGIBLE TO VOTE ABSENTEE. — 1. Except as provided in subsections 3, 4 and 5 of this section, any registered voter of this state may vote by absentee ballot for all candidates and issues for which such voter would be eligible to vote at the polling place if such voter expects to be prevented from going to the polls to vote on election day due to:

(1) Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;

(2) Incapacity or confinement due to illness or physical disability, **including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability;**

(3) Religious belief or practice;

(4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place;

(5) Incarceration, provided all qualifications for voting are retained.

2. Any person in **active duty military** [federal] service, as defined in section 115.275, who is eligible to register and vote [in any election] in this state may vote **only** in the election of **presidential and vice presidential electors, United States senator and representative in Congress** even if the person is not registered. Each person in federal service may vote by absentee ballot or, upon submitting an affidavit that the person is qualified to vote in the election, may vote at the person's polling place.

3. Any interstate former resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors.

4. Any intrastate new resident, as defined in section 115.275, may vote by absentee ballot at the election for presidential and vice presidential electors, United States senator, representative in Congress, statewide elected officials and statewide questions, propositions and amendments from such resident's new jurisdiction of residence after registering to vote in such resident's new jurisdiction of residence.

5. Any new resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors after registering to vote in such resident's new jurisdiction of residence.

115.279. APPLICATION FOR ABSENTEE BALLOT, HOW MADE. — 1. Application for an absentee ballot may be made by the applicant in person, or by mail, or for the applicant, in person, by his or her guardian or a relative within the second degree by consanguinity or affinity. The election authority [may] **shall** accept applications by facsimile transmission [at its discretion and] within the limits of its telecommunications capacity.

2. Each application shall be made to the election authority of the jurisdiction in which the person is or would be registered. Each application shall be in writing and shall state the applicant's name, address at which he or she is or would be registered, his or her reason for voting an absentee ballot and the address to which the ballot is to be mailed, if mailing is requested. Each application to vote in a primary election shall also state which ballot the applicant wishes to receive. If any application fails to designate a ballot, the election authority shall, within three working days after receiving the application, notify the applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates which political party ballot he or she wishes to receive. If the applicant does not respond to the request for political party designation, the election authority is authorized to provide the voter with that part of the ballot for which no political party designation is required.

3. All applications for absentee ballots received prior to the sixth Tuesday before an election shall be stored at the office of the election authority until such time as the applications are processed in accordance with section 115.281. No application for an absentee ballot received in

the office of the election authority by mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday immediately prior to the election shall be accepted by any election authority. No application for an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the election shall be accepted by any election authority, except as provided in subsections 6, 8 and 9 of this section.

4. Each application for an absentee ballot shall be signed by the applicant or, if the application is made by a guardian or relative pursuant to the provisions of this section, the application shall be signed by the guardian or relative, who shall note on the application his or her relationship to the applicant. If an applicant, guardian or relative is blind, unable to read or write the English language or physically incapable of signing the application, he or she shall sign by mark, witnessed by the signature of an election official or person of his or her own choosing. Any person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be guilty of a class one election offense.

5. Notwithstanding any law to the contrary, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the armed forces of the United States or members of their immediate family living with them may request an absentee ballot for both the primary and subsequent general election with one application.

6. An application for an absentee ballot by a new resident, as defined in section 115.275, shall be submitted in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or any authorized officer of the election authority, and in substantially the following form:

"STATE OF
 COUNTY OF, ss.
 I,, do solemnly swear that:
 (1) Before becoming a resident of this state, I resided at (residence address) in (town, township, village or city) of County in the state of;
 (2) I moved to this state after the last day to register to vote in such general presidential election and I am now residing in the county of, state of Missouri;
 (3) I believe I am entitled pursuant to the laws of this state to vote in the presidential election to be held November, (year);
 (4) I hereby make application for a presidential and vice presidential ballot. I have not voted and shall not vote other than by this ballot at such election.
 Signed
 (Applicant)

 (Residence Address)
 Subscribed and sworn to before me this day of,
 Signed
 (Title and name of officer authorized to administer oaths)"

7. The election authority in whose office an application is filed pursuant to subsection 6 of this section shall immediately send a duplicate of such application to the appropriate official of the state in which the new resident applicant last resided and shall file the original of such application in its office.

8. An application for an absentee ballot by an intrastate new resident, as defined in section 115.275, shall be made in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or an authorized officer of the election authority, and in substantially the following form:

"STATE OF

COUNTY OF, ss.

I,, do solemnly swear that:

(1) Before becoming a resident of this election jurisdiction, I resided at (residence address) in (town, township, village or city) of county in the state of

(2) I moved to this election jurisdiction after the last day to register to vote in such election;

(3) I believe I am entitled pursuant to the laws of this state to vote in the election to be held (date);

(4) I hereby make application for an absentee ballot for candidates and issues on which I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other than by this ballot at such election.

Signed

(Applicant)

.....

(Residence Address)

Subscribed and sworn to before me this day of,

Signed

(Title and name of officer authorized to administer oaths)"

9. An application for an absentee ballot by an interstate former resident, as defined in section 115.275, shall be received in the office of the election authority where the applicant was formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the application is made in person by the applicant in the office of the election authority, in which case, such application shall be made no later than 7:00 p.m. on the day of the election.

115.283. STATEMENTS OF ABSENTEE VOTERS OR PERSONS PROVIDING ASSISTANCE TO ABSENTEE VOTERS — FORMS — NOTARY SEAL NOT REQUIRED, WHEN. — 1. Each ballot envelope shall bear a statement on which the voter shall state the voter's name, the voter's voting address, the voter's mailing address and the voter's reason for voting an absentee ballot. On the form, the voter shall also state, under penalties of perjury that the voter is qualified to vote in the election, that the voter has not previously voted and will not vote again in the election, that the voter has personally marked the voter's ballot in secret or supervised the marking of the voter's ballot if the voter is unable to mark it, that the ballot has been placed in the ballot envelope and sealed by the voter or under the voter's supervision if the voter is unable to seal it, and that all information contained in the statement is true. In addition, any person providing assistance to the absentee voter shall include a statement on the envelope identifying the person providing assistance under penalties of perjury. Persons authorized to vote only for federal and statewide officers shall also state their former Missouri residence.

2. The statement for persons voting absentee ballots who are registered voters shall be in substantially the following form:

State of Missouri

County (City) of

I, (print name), a registered voter of County (City of St. Louis, Kansas City), declare under the penalties of perjury that I expect to be prevented from going to the polls on election day due to (check one):

..... absence on election day from the jurisdiction of the election authority in which I am registered;

..... incapacity or confinement due to illness or physical disability, including caring for a person who is incapacitated or confined due to illness or disability;

..... religious belief or practice;

..... employment as an election authority or by an election authority at a location other than my polling place;
 incarceration, although I have retained all the necessary qualifications for voting.

I hereby state under penalties of perjury that I am qualified to vote at this election; I have not voted and will not vote other than by this ballot at this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

..... Signature of Voter Signature of Person Assisting Voter (if applicable)
..... Address of Voter	Subscribed and sworn to before me this day of,
..... Mailing addresses (if different) Signature of notary or other officer authorized to administer oaths

3. The statement for persons voting absentee ballots pursuant to the provisions of subsection 2, 3, 4 or 5 of section 115.277 without being registered shall be in substantially the following form:

State of Missouri
 County (City) of.....

I, (print name), declare under the penalties of perjury that I am a citizen of the United States and eighteen years of age or older. I am not adjudged incapacitated by any court of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I hereby state under penalties of perjury that I am qualified to vote at this election.

(1) I am a resident of the state of Missouri and (check one):

- am a member of the U.S. armed forces in active service;
- am an active member of the U.S. merchant marine;
- am a civilian employee of the U.S. government working outside the United States;
- am an active member of a religious or welfare organization assisting servicemen;
- have been honorably discharged or terminated my service in one of the groups mentioned above within sixty days of this election;
- am a spouse or dependent of one of the above;
- am a registered voter in County and moved from that county to County, Missouri, after the last day to register to vote in this election.

OR (check if applicable)

(2) I am an interstate former resident of Missouri and authorized to vote for presidential and vice presidential electors. I further state under penalties of perjury that I have not voted and will not vote other than by this ballot at this election; I marked the enclosed ballot in secret or am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

The voter needed assistance in marking the ballot and signing above, because of blindness, other physical disability, or inability to read or to read English. I marked the ballot enclosed in this envelope at the voter's direction, when I was alone with the voter, and I had no other communication with the voter as to how he or she was to vote. The voter swore or affirmed the voter affidavit above and I then signed the voter's name and completed the other voter information above. Signed under the penalties of perjury.

Reason why voter needed assistance:

ASSISTING PERSON SIGN HERE

- 1. (signature of assisting person)
- 2. (assisting person's name printed)
- 3. (assisting person's residence)
- 4. (assisting person's home city or town).

6. Notwithstanding any other provision of this section, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the armed forces of the United States or members of their immediate family living with them or persons who have declared themselves to be permanently disabled pursuant to section 115.284, otherwise entitled to vote, shall not be required to obtain a notary seal or signature on his or her absentee ballot.

7. Notwithstanding any other provision of this section or section 115.291 to the contrary, the subscription, signature and seal of a notary or other officer authorized to administer oaths shall not be required on any ballot, ballot envelope, or statement required by this section if the reason for the voter voting absentee is due to [illness or physical disability] **the reasons established pursuant to subdivision (2) of subsection 1 of section 115.277.**

115.284. ABSENTEE VOTING PROCESS FOR PERMANENTLY DISABLED PERSONS ESTABLISHED — ELECTION AUTHORITY, DUTIES — APPLICATION, FORM — LIST OF QUALIFIED VOTERS ESTABLISHED. — 1. There is hereby established an absentee voting process to assist persons with permanent disabilities in the exercise of their voting rights.

2. The local election authority shall send an application to participate in the absentee voting process set out in this section to any registered voter residing within the election authority's jurisdiction upon request.

3. Upon receipt of a properly completed application, the election authority shall enter the voter's name on a list of voters qualified to participate as absentee voters pursuant to this section.

4. The application to participate in the absentee voting process shall be in substantially the following form:

State of

County (City) of

I,..... (print applicant's name), declare that I am a resident and registered voter of County, Missouri, and am permanently disabled. I hereby request that my name be placed on the election authority's list of voters qualified to participate as absentee voters pursuant to section 115.284, and that I be delivered an absentee ballot application for each election in which I am eligible to vote.

.....
Signature of Voter

.....
Voter's Address

5. **Not earlier than six weeks before an election but prior to the fourth Tuesday prior to an election,** [The] **the** election authority shall deliver to each voter qualified to participate as absentee voters pursuant to this section an absentee ballot application [for each election in which]

if the voter is eligible to vote in that election. If the voter returns the absentee request application to the election authority not later than 5:00 p.m. on the Wednesday before an election and has retained the necessary qualifications to vote, the election authority shall provide the voter with an absentee ballot pursuant to this chapter.

6. The election authority shall remove from the list of voters qualified to participate as absentee voters pursuant to this section any voter who:

- (1) Asks to be removed from the list;
- (2) Dies;
- (3) Becomes disqualified from voting pursuant to the provisions of chapter 115; or
- (4) No longer resides at the address of his or her voter registration.

115.287. ABSENTEE BALLOT, HOW DELIVERED. — 1. Upon receipt of a signed application for an absentee ballot and if satisfied the applicant is entitled to vote by absentee ballot, the election authority shall, within three working days after receiving the application, or if absentee ballots are not available at the time the application is received, within five working days after they become available, deliver to the voter an absentee ballot, ballot envelope and such instructions as are necessary for the applicant to vote. Delivery shall be made to the voter personally in the office of the election authority or by bipartisan teams appointed by the election authority, or by first class, registered, or certified mail at the discretion of the election authority. Where the election authority is a county clerk, the members of bipartisan teams representing the political party other than that of county clerk shall be selected from a list of persons submitted to the county clerk by the county chairman of that party. If no list is provided by the time that absentee ballots are to be made available, the county clerk may select a person or persons from lists provided in accordance with section 115.087. If the election authority is not satisfied that any applicant is entitled to vote by absentee ballot, it shall not deliver an absentee ballot to the applicant. Within three working days of receiving such an application, the election authority shall notify the applicant and state the reason he or she is not entitled to vote by absentee ballot. The applicant may appeal the decision of the election authority to the circuit court in the manner provided in section 115.223.

2. If any voter from the jurisdiction has become hospitalized in the county in which the jurisdiction is located or in any county or in the jurisdiction of an adjoining election authority within the same county after 5:00 p.m. on the Wednesday before an election, if any voter from the jurisdiction has become confined due to illness or injury after 5:00 p.m. on the Wednesday before an election or if any voter from the jurisdiction is confined in an adult boarding facility, intermediate care facility, residential care facility, or skilled nursing facility, as defined in section 198.006, RSMo, in the jurisdiction, the election authority [may] **shall** appoint a team to deliver, witness the signing of and return the voter's application and deliver, witness the voting of and return the voter's absentee ballot; **except that, the election authority may allow a relative within the first degree of consanguinity or affinity to perform the same duties as a team for such confined voter.** In counties of the first class with a charter form of government and in cities not within a county, and in each city which has over three hundred thousand inhabitants, and is situated in more than one county, if the election authority receives ten or more applications for absentee ballots from the same address it may appoint a team to deliver and witness the voting and return of absentee ballots by voters residing at that address, except when such addresses are for an apartment building or other structure wherein individual living units are located, each of which has its own separate cooking facilities. Each team appointed under the provisions of this subsection shall consist of two registered voters, one from each major political party. Both members of any team appointed pursuant to this subsection shall be present during the delivery, signing or voting and return of any application or absentee ballot signed or voted pursuant to this subsection.

3. On the mailing and ballot envelopes for each applicant in federal service, the election authority shall stamp prominently in red the words "FEDERAL BALLOT, STATE OF MISSOURI" and "U.S. Postage Paid, 42 U.S.C., 1973 DD".

4. No information which encourages a vote for or against a candidate or issue shall be provided to any voter with an absentee ballot.

115.291. CONFIDENTIALITY OF APPLICATIONS FOR ABSENTEE BALLOTS, LIST AVAILABLE TO AUTHORIZED PERSONS FREE — CERTAIN CITIES AND COUNTIES, SPECIAL PROVISIONS, VIOLATIONS, PENALTY — FAX, TRANSMISSION MAY BE USED TO DELIVER OR RETURN BALLOT, WHEN. — 1. Upon receiving an absentee ballot, the voter shall mark [his] **the** ballot in secret, place the ballot in the ballot envelope, seal the envelope and fill out the statement on the ballot envelope. The affidavit of each person voting an absentee ballot shall be subscribed and sworn to before the election official receiving the ballot, a notary public or other officer authorized by law to administer oaths, unless the voter is voting absentee due to incapacity or confinement due to the provisions of section 115.284, illness or physical disability. If the voter is blind, unable to read or write the English language, or physically incapable of voting [his] **the** ballot, [he] **the voter** may be assisted by a person of [his] **the voter's** own choosing. Any person assisting a voter who is not entitled to such assistance, and any person who assists a voter and in any manner coerces or initiates a request or a suggestion that the voter vote for or against or refrain from voting on any question, ticket or candidate, shall be guilty of a class one election offense. If, upon counting, challenge or election contest, it is ascertained that any absentee ballot was voted with unlawful assistance, the ballot shall be rejected.

2. Each absentee ballot shall be returned to the election authority in the ballot envelope and shall only be returned by the voter in person, **or in person by a relative of the voter who is within the second degree of consanguinity or affinity**, by mail or registered carrier or by a team of deputy election authorities; **except that persons in federal service, when sent from a location determined by the secretary of state to be inaccessible on election day, shall be allowed to return their absentee ballots cast by use of facsimile transmission or under a program approved by the Department of Defense for electronic transmission of election materials.**

3. In cases of an emergency declared by the President of the United States or the governor of this state where the conduct of an election may be affected, the secretary of state may provide for the delivery and return of absentee ballots by use of a facsimile transmission device or system. Any rule promulgated pursuant to this subsection shall apply to a class or classes of voters as provided for by the secretary of state.

115.365. NOMINATING COMMITTEE DESIGNATED AS TO CERTAIN OFFICES. — 1. The nominating committee authorized to select a candidate for nomination or election to office [under the provisions of] **pursuant to** section 115.363 shall be one of the following:

(1) To select a candidate for county office, the nominating committee shall be the county committee of the party;

(2) To select a candidate for state representative, the nominating committee shall be the legislative district committee of the party;

(3) To select a candidate for state senator, the nominating committee shall be the senatorial district committee of the party;

(4) To select a candidate for circuit court judge not subject to the provisions of article V, section 25 of the state constitution, the nominating committee shall be the judicial district committee of the party;

(5) To select a candidate for representative in Congress, the nominating committee shall be the congressional district committee of the party;

(6) To select a candidate for statewide office, the nominating committee shall be the state committee of the party.

2. After any decennial redistricting, the nominating committee shall be composed from the new districts, and the new district lines shall be used in the selection of a candidate; **provided, however, that members of nominating committees for candidates for special elections to fill vacancies conducted pursuant to section 21.130, RSMo, shall be from the old districts.**

115.367. CHANGE OF DISTRICT BOUNDARIES, EFFECT ON NOMINATING COMMITTEE. —

1. In the event that the boundaries of a district have been altered, or a new district established for a candidate to be selected by a party committee since the last election in which a party candidate ran for such office, the members of the nominating committee shall be the members of the various nominating committees for that office, as provided in section 115.365 who reside within the altered or new district; **provided, however, that members of nominating committees for candidates for special elections to fill vacancies conducted pursuant to section 21.130, RSMo, shall be from the old districts.** The chairman of the nominating committee shall be the committee chairman of the county which polled the highest vote for the party candidate for governor within the area to be represented at the last gubernatorial election.

2. In the event that a candidate is to be selected by a party committee of a new political party which has not yet elected committeemen and committeewomen in the manner provided by law, the chairman of the nominating committee shall be the provisional chairman of the party for the state, or if the political party is formed for a district or political subdivision less than the state, the chairman of the nominating committee shall be the provisional chairman of the party for such district or political subdivision. The chairman of the nominating committee shall appoint additional members of the nominating committee, not less than four in number.

3. In the event that a candidate is to be selected for nomination or election to an office by a new political party which has elected committeemen and committeewomen in the manner provided for established political parties, the members of the nominating committee shall be the same as provided in section 115.365.

115.409. WHO MAY BE ADMITTED TO POLLING PLACE. — Except election authority personnel, election judges, watchers and challengers appointed pursuant to section 115.105 or 115.107, law enforcement officials at the request of election officials or in the line of duty, minor children under the age of eighteen accompanying an adult who is in the process of voting, **international observers who have registered as such with the election authority**, persons designated by the election authority to administer a simulated youth election for persons ineligible to vote because of their age, members of the news media who present identification satisfactory to the election judges and who are present only for the purpose of bona fide news coverage except as provided in subdivision (18) of section 115.637, provided that such coverage does not disclose how any voter cast [his] **the voter's** ballot on any question or candidate or in the case of a primary election on which party ballot they voted or does not interfere with the general conduct of the election as determined by the election judges or election authority, and registered voters who are eligible to vote at the polling place, no person shall be admitted to a polling place.

115.417. VOTER INSTRUCTION CARDS TO BE DELIVERED TO POLLS — INSTRUCTIONS TO BE POSTED, HOW. — 1. Before the time fixed by law for the opening of the polls, the election authority shall deliver to each polling place a sufficient number of voter instruction cards which include the following information:

(1) If paper ballots or an electronic voting system is used, the instructions shall inform the voter on how to obtain a ballot for voting, how to vote and prepare the ballot for deposit in the ballot box and how to obtain a new ballot to replace one accidentally spoiled;

(2) If voting machines are used, the instructions shall inform the voter how to operate the machine in such a manner that [he] **the voter** may vote as [he] **the voter** wishes.

2. The election authority at each polling place shall post in a conspicuous place voting instructions on a poster no smaller than twenty-four inches by thirty inches. Such

instructions shall also inform the voter that the voting equipment can be demonstrated upon request of the voter.

[2.] **3.** If marking devices or voting machines are used, the election authority shall also provide to each polling place a model of a marking device or portion of the face of a voting machine. If requested to do so by a voter, the election judges shall give instructions on operation of the marking device or voting machine by use of the model.

4. The secretary of state may develop multi-lingual voting instructions to be made available to election authorities.

115.419. SAMPLE BALLOTS, CARDS OR BALLOT LABELS TO BE DELIVERED TO THE POLLS, WHEN. — Before the time fixed by law for the opening of the polls, the election authority shall deliver to each polling place a sufficient number of sample ballots, ballot cards or ballot labels which shall be a different color but otherwise exact copies of the official ballot. The samples shall be printed in the form of a diagram, showing the form of the ballot or the front of the marking device or voting machine as it will appear on election day. **The secretary of state may develop multi-lingual sample ballots to be made available to election authorities.**

115.420. BUTTERFLY BALLOT PROHIBITED, EXCEPTIONS. — **1.** An election authority operating a voting system that uses ballot cards shall not use a butterfly ballot unless the secretary of state provides written approval to the election authority for the use of a butterfly ballot in the particular election.

2. For purposes of this section, "butterfly ballot" means a ballot where two ballot pages are used side by side and where voters must vote on candidates or issues on both sides of the pages.

3. The secretary of state may approve the use of a butterfly ballot in a particular election when a large number of candidates and issues are to be decided, no alternative ballot is reasonable under the circumstances, and the election authority submits to the secretary of state a written explanation of the need for using a butterfly ballot. The secretary of state shall respond to such written request within two business days.

115.427. VOTER TO PRESENT FORM OF PERSONAL — RULEMAKING AUTHORITY — IDENTIFICATION MARK IN LIEU OF SIGNATURE PERMITTED, WHEN. — **1.** [In counties using binders as precinct registers.] Before receiving a ballot, [each voter] voters shall identify [himself] themselves by presenting a form of personal identification from the following list:

(1) Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;

(2) Identification issued by the United States government or agency thereof;

(3) Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;

(4) A copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter;

(5) Driver's license or state identification card issued by another state; or

(6) Other identification approved by the secretary of state under rules promulgated pursuant to subsection 3 of this section other identification approved by federal law. Personal knowledge of the voter by two supervising election judges, one from each major political party, shall be acceptable voter identification upon the completion of a secretary of state-approved affidavit that is signed by both supervisory election judges and the voter that attests to the personal knowledge of the voter by the two supervisory election judges. The secretary of state may provide by rule for a sample affidavit to be used for such purpose. [and write his address and sign his name on a certificate furnished to the election judges by the election authority. Each certificate shall be in substantially the following form:

VOTER'S IDENTIFICATION CERTIFICATE

Warning: It is against the law for anyone to vote, or attempt to vote, without having a lawful right to vote.

PRECINCT WARD OR TOWNSHIP

GENERAL (SPECIAL, PRIMARY) ELECTION

Held, 20....

Date

I hereby certify that I am qualified to vote at this election.

.....
Sign Name
(Do Not Print)

.....

.....
Initials of two judges from
different political parties]

.....
Address

2. [In counties using computer printouts as the precinct register, before receiving a ballot, each voter shall present his voter identification card as provided in section 115.163.] The [computer printout] **precinct register** shall serve as the voter identification certificate. The following form shall be printed at the top of each page of the [computer printout] **precinct register**:

VOTER'S IDENTIFICATION CERTIFICATE

Warning: It is against the law for anyone to vote, or attempt to vote, without having a lawful right to vote.

PRECINCT

WARD OR TOWNSHIP

GENERAL (SPECIAL, PRIMARY) ELECTION

Held, 20....

Date

I hereby certify that I am qualified to vote at this election **by signing my name and verifying my address by signing my initials next to my address.** [The voter shall sign his name and verify his address by his initials.]

3. The secretary of state shall promulgate rules to effectuate the provisions 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.

[3.] **5.** If any voter is unable to sign his name at the appropriate place on the certificate or computer printout, an election judge shall print the name and address of the voter in the appropriate place on the [certificate or printout] **precinct register**, the voter shall make his mark in lieu of signature, and the voter's mark shall be witnessed by the signature of an election judge.

[4. In counties using binders as the precinct register, two election judges, one from each major political party, shall compare the signature on the identification certificate with the signature on the precinct register.

5. In counties using printouts as the precinct register, two election judges, one from each major political party, shall compare the signature on the voter identification card with the signature on the computer printout. If the voter does not have his voter identification card, the judges shall require identification acceptable to the election authority. Personal knowledge of the voter by two election judges, one from each major political party, shall be acceptable identification to the election authority.]

115.429. PERSON NOT ALLOWED TO VOTE — APPEAL, HOW TAKEN — VOTER MAY BE REQUIRED TO SIGN AFFIDAVIT, WHEN — FALSE AFFIDAVIT A CLASS ONE OFFENSE. — 1. The election judges shall not permit any person to vote unless satisfied that such person is the person whose name appears on the precinct register.

2. The identity or qualifications of any person offering to vote may be challenged by any election authority personnel, any registered voter, or any duly authorized challenger at the polling place. No person whose right to vote is challenged shall receive a ballot until his identity and qualifications have been established.

3. Any question of doubt concerning the identity or qualifications of a voter shall be decided by a majority of the judges **from the major political parties**. If [the] **such** election judges decide not to permit a person to vote because of doubt as to his identity or qualifications, the person may apply to the election authority or to the circuit court as provided in sections 115.193 and 115.223.

4. If the election judges cannot reach a decision on the identity or qualifications of any person, the question shall be decided by the election authority, subject to appeal to the circuit court as provided in section 115.223.

5. The election judges or the election authority may require any person whose right to vote is challenged to execute an affidavit affirming his qualifications. The election authority shall furnish to the election judges a sufficient number of blank affidavits of qualification, and the election judges shall enter any appropriate information or comments under the title "Remarks" which shall appear at the bottom of the affidavit. All executed affidavits of qualification shall be returned to the election authority with the other election supplies. Any person who makes a false affidavit of qualification shall be guilty of a class one election offense.

115.433. JUDGES TO INITIAL PAPER BALLOTS OR BALLOT CARDS, WHEN. — After the voter's identification certificate has been initialed, two judges of different political parties, **or one judge from a major political party and one judge with no political affiliation**, shall, where paper ballots or ballot cards are used, initial the voter's ballot or ballot card.

115.439. PROCEDURE FOR VOTING PAPER BALLOT — RULEMAKING AUTHORITY. — 1. If paper ballots or ballot cards are used, the voter shall, immediately upon receiving his ballot, go alone to a voting booth and vote his ballot in the following manner:

(1) If the voter desires to vote a straight party ticket, he may place a cross (X) mark in the circle directly below the party name at the head of the column, or he may place cross (X) marks in the squares directly to the left of the names of candidates on one party ticket;

(2) If the voter desires to vote a split party ticket, he may place a cross (X) mark in the circle directly below one party name at the head of the column and cross (X) marks in the squares directly to the left of the names of candidates on other party tickets, or he may place cross (X) marks in the squares directly to the left of the names of candidates on different party tickets;

(3) If the voter desires to vote for a person whose name does not appear on the ballot, he may cross out a name which appears on the ballot for the office and write the name of the person for whom he wishes to vote above or below the crossed-out name and place a cross (X) mark in the square directly to the left of the crossed-out name. If a write-in line appears on the ballot, he may write the name of the person for whom he wishes to vote on the line and place a cross (X) mark in the square directly to the left of the name;

(4) If the ballot does not contain any party designations, the voter shall place a cross (X) mark in the squares directly to the left of the names of the candidates for whom he desires to vote;

(5) If the ballot is one which contains no candidates, the voter shall place a cross (X) mark in the square directly to the left of each "yes" or "no" he desires to vote. No voter shall vote for the same person more than once for the same office at the same election.

2. For purposes of this section, a punch or sensor mark or any other mark clearly indicating that the voter intends to mark that particular square shall be equivalent to a cross (X) mark.

3. If voting machines are used, the voter shall, immediately upon direction by the judges, go alone to a voting machine, close the curtain and vote in substantially the same manner provided in subsection 1 of this section. Rather than placing cross (X) marks on the ballot, however, the voter shall cause the designations to appear on the face of the voting machine, cast any write-in votes and register his votes as directed in the instructions for use of the machine.

4. If the voter accidentally spoils his ballot or ballot card or makes an error, he may return it to an election judge and receive another. The election judge shall mark "SPOILED" across the ballot or ballot card and place it in an envelope marked "SPOILED BALLOTS". After another ballot has been prepared in the manner provided in section 115.433, the ballot shall be given to the voter for voting.

5. [If any] **The election authority may authorize the use of a sticker or other item containing a write-in candidate's name, in lieu of a handwritten name[, is present on the ballot,]. All such stickers and items used by election authorities shall conform to rules and regulations promulgated by the secretary of state regarding the form of such stickers and items. The secretary of state shall promulgate rules and regulations to prescribe uniform specifications for the form of such stickers and items. If authorized,** such sticker or item shall contain a cross (X) mark, or other mark as described in subsection 2 of this section, in the square directly left of the candidate's name and the office for which the candidate is a write-in candidate. A write-in vote that does not meet the requirements of this subsection which appears on a ballot shall not be counted [under] **pursuant to** sections 115.447 to 115.525. In those jurisdictions using an electronic voting system which utilizes mark sense or optical scan technology **and if the election authority authorizes the use of stickers for write-ins,** such system shall be programmed to identify and separate those ballots which contain an office in which write-in candidates are eligible to receive votes, and which contain less votes than a voter is entitled to cast. In addition, such sticker shall be considered "printed matter" as defined in subsection 8 of section 130.031, RSMo, and as such shall contain the designation required by subsection 8 of section 130.031, RSMo.

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.

115.453. PROCEDURE FOR COUNTING VOTES FOR CANDIDATES. — Election judges shall count votes for all candidates in the following manner:

(1) If a cross (X) mark appears in the circle immediately below a party name at the head of a column, each candidate of the party shall be counted as voted for. If a cross (X) mark appears in the circle immediately below more than one party name, no candidate shall be counted as voted for, except a candidate before whose name a cross (X) mark appears in the square preceding the name and a cross (X) mark does not appear in the square preceding the name of any candidate for the same office in another column. If a cross (X) mark appears in the

circle immediately below a party name at the head of a column, and a cross (X) mark appears in the square next to the name of any candidate in another column, each candidate of the party whose circle is marked shall be counted as voted for, except where a cross (X) mark appears in the square preceding the name of any candidate in another column. Except as provided in this subdivision and subdivision (2) of this section, each candidate with a cross (X) mark in the square preceding his or her name shall be counted as voted for.

(2) If no cross (X) mark appears in the circle immediately below any party name, but a cross (X) mark does appear in the square next to any candidate's name, the name of each candidate next to which a cross (X) mark appears shall be counted as voted for, and no other name shall be counted as voted for. If cross (X) marks appear next to the names of more candidates for an office than are entitled to fill the office, no candidate for the office shall be counted as voted for. If more than one candidate is to be nominated or elected to an office, and any voter has voted for the same candidate more than once for the same office at the same election, no votes cast by the voter for the candidate shall be counted.

(3) No vote shall be counted for any candidate that is not marked substantially in accordance with the provisions of this section. The judges shall count votes marked substantially in accordance with this section when the intent of the voter seems clear. **Regulations promulgated by the secretary of state shall be used by the judges to determine voter intent.** No ballot containing any proper votes shall be rejected for containing fewer marks than are authorized by law.

(4) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate for election to office with the proper election authority, who shall then notify the proper filing officer of the write-in candidate prior to 5:00 p.m. on the second Friday immediately preceding the election day; except that, write-in votes shall be counted only for candidates for election to state or federal office who have filed a declaration of intent to be a write-in candidate for election to state or federal office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second Friday immediately preceding the election day. No person who filed as a party or independent candidate for nomination or election to an office may, without withdrawing as provided by law, file as a write-in candidate for election to the same office for the same term. No candidate who files for nomination to an office and is not nominated at a primary election may file a declaration of intent to be a write-in candidate for the same office at the general election. When declarations are properly filed with the secretary of state, the secretary of state shall promptly transmit copies of all such declarations to the proper election authorities for further action pursuant to this section. The election authority shall furnish a list to the election judges and counting teams prior to election day of all write-in candidates who have filed such declaration. This subdivision shall not apply to elections wherein candidates are being elected to an office for which no candidate has filed.

(5) Write-in votes shall be cast and counted for a candidate without party designation. Write-in votes for a person cast with a party designation shall not be counted. Except for candidates for political party committees, no candidate shall be elected as a write-in candidate unless such candidate receives a separate plurality of the votes without party designation regardless of whether or not the total write-in votes for such candidate under all party and without party designations totals a majority of the votes cast.

(6) When submitted to the election authority, each declaration of intent to be a write-in candidate for the office of United States president shall include the name of a candidate for vice president and the name of nominees for presidential elector equal to the number to which the state is entitled. At least one qualified resident of each congressional district shall be nominated as presidential elector. Each such declaration of intent to be a write-in candidate shall be accompanied by a declaration of candidacy for each presidential elector in substantially the form set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of presidential elector shall be subscribed and sworn to by the candidate before the election official

receiving the declaration of intent to be a write-in, notary public or other officer authorized by law to administer oaths.

115.493. BALLOTS AND RECORDS TO BE KEPT ONE YEAR, MAY BE INSPECTED, WHEN. — The election authority shall keep all voted ballots, ballot cards, **processed ballot materials in electronic form** and write-in forms, and all applications, statements, certificates, affidavits and computer programs relating to each election for twelve months after the date of the election. During the time that voted ballots, ballot cards, **processed ballot materials in electronic form** and write-in forms are kept by the election authority, it shall not open or inspect them or allow anyone else to do so, except upon order of a legislative body trying an election contest, a court or a grand jury. After twelve months, the ballots, ballot cards, **processed ballot materials in electronic form**, write-in forms, applications, statements, certificates, affidavits and computer programs relating to each election may be destroyed. If an election contest, grand jury investigation or civil or criminal case relating to the election is pending at the time, however, the materials shall not be destroyed until the contest, investigation or case is finally determined.

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.

115.607. COUNTY COMMITTEE, SELECTION OF. — 1. No person shall be elected or shall serve as a member of a county committee who is not, for one year next before [his] **the person's** election, both a registered voter of and a resident of the county and the committee district from which [he] **the person** is elected if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken. Except as provided in subsections 2, 3, 4, 5, and 6 of this section, the membership of a county committee of each established political party shall consist of a man and a woman elected from each township or ward in the county.

2. In each county of the first [class] **classification** containing the major portion of a city which has over three hundred thousand inhabitants, two members of the committee, a man and a woman, shall be elected from each ward in the city. Any township entirely contained in the city shall have no additional representation on the county committee. The election authority for the county shall, **not later than six months after the decennial census has been reported to the President of the United States**, divide the most populous township outside the city into eight subdistricts of contiguous and compact territory and as nearly equal in population as practicable. The subdistricts shall be numbered from one upward consecutively, which numbers shall, insofar as practicable, be retained upon reapportionment. Two members of the county committee, a man and a woman, shall be elected from each such subdistrict. Four members of the committee, two men and two women, shall be elected from each other township outside the city.

3. In any city which has over three hundred thousand inhabitants, the major portion of which is located in a county [of the first class] with a charter form of government, for the portion of the city located within such county and notwithstanding [the provisions of] section 82.110, RSMo, it shall be the duty of the election authority, **not later than six months after the decennial census has been reported to the President of the United States**, to divide such cities into not less than twenty-four nor more than twenty-five wards after each decennial census. Wards shall be so divided that the number of inhabitants in any ward shall not exceed any other ward of the city and within the same county, by more than five percent, measured by the number of the inhabitants determined at the preceding decennial census. [Changes of ward or precinct lines shall not affect the terms of office of incumbent party committeemen or committeewomen elected from districts as constituted at the time of their election.]

4. In each county of the first [class] **classification** containing a portion, but not the major portion, of a city which has over three hundred thousand inhabitants, ten members of the committee, five men and five women, shall be elected from the district of each state representative wholly contained in the county in the following manner: **Within six months** after each legislative reapportionment, the election authority shall divide each legislative district wholly contained in the county into five committee districts of contiguous territory as compact and as nearly equal in population as may be; two members of the committee, a man and a woman, shall be elected from each committee district. The election authority shall divide the area of the county located within legislative districts not wholly contained in the county into similar committee districts; two members of the committee, a man and a woman, shall be elected from each committee district.

5. In each city not situated in a county, two members of the committee, a man and a woman, shall be elected from each ward.

6. In all [first class] counties with a charter form of government and a population of over nine hundred thousand inhabitants, the county committee persons shall be elected from each township. **Within ninety days after August 28, 2002, and within six months after each decennial census has been reported to the President of the United States, the election**

authority shall divide the county into twenty-eight compact and contiguous townships containing populations as nearly equal in population to each other as is practical.

7. If any election authority has failed to adopt a reapportionment plan by the deadline set forth in this section, the county commission, sitting as a reapportionment commission, shall within sixty days after the deadline, adopt a reapportionment plan. Changes of township, ward, or precinct lines shall not affect the terms of office of incumbent party committee members elected from districts as constituted at the time of their election.

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.]

115.755. PRESIDENTIAL PRIMARY, WHEN HELD. — A statewide presidential preference primary shall be held on the first Tuesday after the first Monday in [March] February of each presidential election year.

115.801. YOUTH VOTING PROGRAMS, GRANT PROGRAM TO BE ADMINISTERED. — Subject to appropriation from federal funds, the secretary of state shall administer a grant program annually for the purpose of involving youth in youth voting programs. The secretary of state may promulgate rules to effectuate the provisions of this section.

115.803. FEDERAL ELECTIONS, GRANT PROGRAM TO IMPROVE ELECTION PROCESS. — The secretary of state shall administer a grant program for the purpose of allowing election authorities to receive grants from the federal government for the purpose of improving the election process in federal elections. The secretary of state may promulgate rules to effectuate the provisions of this section.

115.806. 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

115.801 and 115.803 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.

SECTION 1. PROVISIONAL BALLOTS, USED WHEN, EXCEPTIONS, PROCEDURE — RULEMAKING AUTHORITY. — 1. The provisions of this section shall apply to primary and general elections where candidates for federal or statewide offices are nominated or elected and any election where statewide issue or issues are submitted to the voters.

2. A voter claiming to be properly registered in the jurisdiction of the election authority and eligible to vote in an election, but whose eligibility cannot be immediately established upon examination of the precinct register or upon examination of the records on file with the election authority, shall be entitled to vote a provisional ballot after providing a form of personal identification required pursuant to section 115.427, RSMo. The provisional ballot contained in this section shall contain the statewide candidates and issues, and federal candidates. The congressional district on the provisional ballot shall be for the address contained on the affidavit provided for in this section.

3. Once voted, the provisional ballot shall be placed and sealed in a provisional ballot envelope. The provisional ballot in its envelope shall be deposited in the ballot box. The provisional ballot envelope shall be completed by the voter for use in determining eligibility. The provisional ballot envelope specified in this section shall contain a voter's certificate which shall be in substantially the following form:

STATE OF

COUNTY OF

I do solemnly swear (or affirm) that my name is; that my date of birth is; that the last four digits of my Social Security Number are; that I am registered to vote in County or City (if a City not within a County), Missouri; that I am a qualified voter of said County (or City not within a County); that I am eligible to vote at this polling place; and that I have not voted in this election.

I understand that if the above-provided information is not correct and the election authority determines that I am not registered and eligible to vote, my vote will not be counted. I further understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....
(Signature of Voter)

.....
(Current Address)

Subscribed and affirmed before me this day of, 20....

.....
(Signature of Election Official)

The voter may provide additional information to further assist the election authority in determining eligibility, including the place and date the voter registered to vote, if known.

4. Prior to certification of the election, the election authority shall determine if the voter is registered and entitled to vote and if the vote was properly cast. The provisional ballot shall be counted only if the election authority determines that the voter is registered and entitled to vote. If the voter is not registered but is qualified to register for future elections, the affidavit shall be considered a mail application to register to vote under the provisions of this chapter.

5. In counties where the voting system does not utilize a paper ballot, the election authority shall provide the appropriate provisional ballots to each polling place.

6. The secretary of state may promulgate rules for purposes of ensuring the uniform application of this section.

7. 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.

8. The secretary of state shall design and provide to the election authorities the envelopes and forms necessary to carry out the provisions of this section.

[115.083. ADDITIONAL JUDGES AUTHORIZED, EVEN NUMBER AND BIPARTISAN REQUIRED. — Any election authority may appoint an even number of additional judges for use as needed on election day. One-half of such judges shall be members of one major political party, and one-half of such judges shall be members of the other major political party.]

[115.122. ANY COUNTY, CITY, TOWN OR VILLAGE MAY HOLD AN ELECTION ON AUGUST 5, 1997. — The provisions of section 115.123, to the contrary notwithstanding, any county, city, town or village may hold an election on the first Tuesday after the first Monday in August, 1997.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the efficient operation of elections in this state, the repeal and reenactment of section 115.613 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 115.613 of this act shall be in full force and effect upon its passage and approval, or July 1, 2002, whichever later occurs.

Approved June 21, 2002

SB 695 [HCS SB 695]

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 Children's Trust Fund Board from seventeen to twenty-one members.

AN ACT to repeal section 210.170, RSMo, and to enact in lieu thereof one new section relating to the children's trust fund board.

SECTION

A. Enacting clause.

210.170. Children's trust fund board created — members, appointment — qualifications — terms — vacancies — removal procedure — staff — expenses — office of administration, duties.

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

SECTION A. ENACTING CLAUSE. — Section 210.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.170, to read as follows:

210.170. CHILDREN'S TRUST FUND BOARD CREATED — MEMBERS, APPOINTMENT — QUALIFICATIONS — TERMS — VACANCIES — REMOVAL PROCEDURE — STAFF — EXPENSES — OFFICE OF ADMINISTRATION, DUTIES. — 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of [seventeen] **twenty-one** members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate. As a group, the public members appointed [under] **pursuant to** this subdivision shall demonstrate knowledge in the area of prevention programs, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

- (a) Organized labor;
- (b) The business community;
- (c) The educational community;
- (d) The religious community;
- (e) The legal community;
- (f) Professional providers of prevention services to families and children;
- (g) Volunteers in prevention services;
- (h) Social services;
- (i) Health care services; and
- (j) Mental health services;

(2) A physician licensed pursuant to chapter 334, RSMo;

(3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties; [and]

(4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties; **and**

(5) Four members chosen and appointed by the governor.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him **or her** by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36, RSMo.

5. Each member of the board [shall] **may** be reimbursed for all actual and necessary expenses incurred by [him] **the member** in the performance of his **or her** official duties. All reimbursements made [under] **pursuant to** this subsection shall be made from funds in the children's trust fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030, RSMo.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.174, as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

Approved July 2, 2002

SB 701 [SB 701]

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

Modifies law to reflect the fact the Federal Aviation Administration issues airmen certificates.

AN ACT to repeal sections 305.120, 305.130 and 305.140, RSMo, relating to the operation of aircraft, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 305.120. Definitions.
- 305.130. Unlawful to operate without an airman certificate and certificate of airworthiness.
- 305.140. Airman certificate to be kept in personal possession.

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

SECTION A. ENACTING CLAUSE. — Sections 305.120, 305.130 and 305.140, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 305.120, 305.130 and 305.140, to read as follows:

305.120. DEFINITIONS. — As used in sections 305.120 to 305.270, the following terms mean:

(1) "Aeronautics" includes the art and science of flight; aviation; the construction, operation, navigation of aircraft and all component parts thereof; air navigation aids, such as markings, lighting, electric and electronic devices that transmit or receive visual, audible or electronic signals, sounds or displays; navigation and piloting; and also includes airports and the planning, design, construction, repair, improvement, or maintenance thereto or any part thereof; and the dissemination of information and instruction pertaining to all of the foregoing;

(2) "Aircraft", any device now known or hereafter invented, used or designed for navigation of or flight through the air;

(3) "Airman", a person, including the person in command of an aircraft or a pilot, mechanic, or member of the crew, who engages in the navigation of an aircraft while under way;

(4) "Airman certificate", a certificate issued to an airman pursuant to 49 U.S.C. 44702;

[(3)] (5) "Airport", an area on land or water that is used or intended to be used for the landing and takeoff of aircraft including buildings, equipment, facilities, rights-of-way, property and appurtenant areas;

[(4)] (6) "Airport authority", an entity established in accordance with state law which may plan for, acquire, construct, operate, and maintain an airport or airports as a political subdivision within this state;

[(5)] (7) "Pilot", any person licensed to operate aircraft;

[(6)] (8) "Political subdivision", any county, city, town, village or other political entity having the authority to tax and to exercise the power of eminent domain;

[(7)] (9) "Runway", a defined rectangular area on a land airport prepared specifically for the landing and takeoff of aircraft.

305.130. UNLAWFUL TO OPERATE WITHOUT AN AIRMAN CERTIFICATE AND CERTIFICATE OF AIRWORTHINESS. — It shall be unlawful for any person to operate any aircraft within this state in carrying a passenger or passengers, or any property, or in the prosecution of a business or commercial enterprise, or for instruction in the art of flying, without a [pilot's license] **airman certificate** for such purposes issued by the [Department of Commerce of the United States] **Federal Aviation Administration**, and without a valid certificate of airworthiness for such aircraft issued by [said Department of Commerce] **the Federal Aviation Administration**.

305.140. AIRMAN CERTIFICATE TO BE KEPT IN PERSONAL POSSESSION. — The [pilot's license] **airman certificate** and certificate of airworthiness required by sections 305.120 to 305.160 shall be kept in the personal possession of the licensee when operating aircraft within this state, and must be presented for inspection upon the demand of any passenger, or any peace officer, or any official, manager or person in charge of any airport, or landing field in this state upon which he shall land.

Approved June 13, 2002

SB 708 [SB 708]

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

Revises membership of Clean Water Commission.

AN ACT to repeal section 644.021, RSMo, relating to the clean water commission, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

644.021. Commission created, members, qualifications, term — meetings.

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

SECTION A. ENACTING CLAUSE. — Section 644.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 644.021, to read as follows:

644.021. COMMISSION CREATED, MEMBERS, QUALIFICATIONS, TERM — MEETINGS. —

1. There is hereby created a water contaminant control agency to be known as the "Clean Water Commission of the State of Missouri", whose domicile for the purposes of sections 644.006 to 644.141 shall be deemed to be that of the department of natural resources. The commission shall consist of [six] **seven** members appointed by the governor with the advice and consent of the senate. No more than three of the members shall belong to the same political party. All members shall be representative of the general interest of the public and shall have an interest in and knowledge of conservation and the effects and control of water contaminants. Two such members, but no more than two, shall be knowledgeable concerning the needs of agriculture, industry or mining and interested in protecting these needs in a manner consistent with the purposes of sections 644.006 to 644.141. **One such member shall be knowledgeable concerning the needs of publicly owned wastewater treatment works. Four members shall represent the public.** No member shall receive, or have received during the previous two years, a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit pursuant to any federal water pollution control act as amended and as applicable to this state. **All members appointed on or after August 28, 2002 shall have demonstrated an interest and knowledge about water quality. All members appointed on or after August 28, 2002 shall be qualified by interest, education, training or experience to provide, assess and evaluate scientific and technical information concerning water quality, financial requirements and the effects of the promulgation of standards, rules and regulations.** At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

2. The members' terms of office shall be four years and until their successors are selected and qualified. Provided, however, that the first three members appointed shall serve a term of two years, the next three members appointed shall serve a term of four years, thereafter all members appointed shall serve a term of four years. There is no limitation on the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties.

3. The commission shall hold at least four regular meetings each year and such additional meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by three members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given by the director to all members of the commission. Four members of the commission shall constitute a quorum. All powers and duties conferred specifically upon members of the commission shall be exercised personally by the members and not by alternates or representatives. All actions of the commission shall be taken at meetings open to the public. Any member absent from six consecutive regular commission meetings for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 of this section.

Approved July 10, 2002

SB 712 [CCS HS HCS SCS SB 712]

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

Creates the Missouri State Emergency Health Powers Act to address state public health emergencies.

AN ACT to repeal sections 44.010, 44.023, 190.500, 306.124, 307.177, 407.472, 473.697, 490.620, 542.400, 542.402, 542.404, 542.406, 542.408, 542.410, 542.412, 542.414, 542.416, 542.418, 542.420, 542.422, 570.030, 571.020, 574.105, 574.115, 575.080, 578.008 and 610.021, and to enact in lieu thereof thirty-two new sections relating to terrorism, with penalty provisions and an expiration date for a certain section.

SECTION

- A. Enacting clause.
- 38.050. Joint committee on terrorism, bioterrorism, and homeland security established, members, duties, meetings, expenses, report — expires, when.
- 44.010. Definitions.
- 44.023. Disaster volunteer program established, agency's duties — expenses — immunity from liability, exception.
- 190.500. Temporary license — qualified health care professions — declared emergency.
- 195.041. Emergencies, waiver of registration and record-keeping requirements for controlled substances, when.
- 304.370. Hazardous materials, requirements for transportation — violations, penalties.
- 306.124. Aids to navigation and regulatory markers defined — water patrol may mark waters, hearing, notice — markings, effect of — disaster, closing of certain waters — violation, penalty.
- 307.177. Transporting hazardous materials, equipment required — federal physical requirements not applicable, when — violations, penalty.
- 407.472. Investigations by attorney general — investigative demand, how served — injunction, procedure.
- 473.697. Letters of administration for persons absent for five or more years — application — notice — hearing.
- 490.620. Person, when presumed to be dead.
- 542.400. Definitions.
- 542.402. Penalty for illegal wiretapping, permitted activities.
- 542.404. Application for an order — authorization by attorney general — approval by judge, probable cause required.
- 542.406. Disclosure of contents — privileged communications.
- 542.408. Application, contents — ex parte order issued, when, contents, extensions granted, when — reports, court may require, when — pen registers, who may request — communication, common carriers may provide aid, immunity from suit, compensation.
- 542.410. Recording of contents, required, how, custody of, duplication, destruction of — applications and orders sealed by court, disclosure, when, destruction of — penalty — notice to persons named in order, when, right to inspect and copy contents.
- 542.412. Contents may be used as evidence, when — disclosure of additional evidence to defendant.
- 542.414. Suppression of contents, grounds — right of state to appeal suppression motion, when.
- 542.416. Reports to state courts administrator required, when, contents, who must report — state courts administrator to report to general assembly, when — rules and regulations.
- 542.418. Use of contents of wiretap in civil action, limitations on — illegal wiretap, cause of action, damages, attorney fees and costs — good faith reliance on court order a prima facie defense.
- 542.420. Evidence obtained in violation of law may not be used.
- 542.422. Injunctions of felony violations of sections 542.400 to 542.424, procedure.
- 569.072. Water contamination, penalty.
- 570.030. Stealing — penalties.
- 571.020. Possession — manufacture — transport — repair — sale of certain weapons a crime — exceptions — penalties.
- 574.105. Crime of money laundering, committed, when — penalty.
- 574.115. Making a terrorist threat, penalty.
- 575.080. False reports.
- 576.080. Supporting terrorism — definition of material support — penalty.
- 578.008. Agroterrorism, crime of — penalty — defenses.
- 610.021. Closed meetings and closed records authorized when, exceptions.
- 542.400. Definitions.
- 542.402. Penalty for illegal wiretapping, permitted activities.

- 542.404. Application for an order — authorization by attorney general — approval by judge, probable cause required.
- 542.406. Disclosure of contents — privileged communications.
- 542.408. Application, contents — ex parte order issued, when, contents, extensions granted, when — reports, court may require, when — pen registers, who may request — communication, common carriers may provide aid, immunity from suit, compensation.
- 542.410. Recording of contents, required, how, custody of, duplication, destruction of — applications and orders sealed by court, disclosure, when, destruction of — penalty — notice to persons named in order, when, right to inspect and copy contents.
- 542.412. Contents may be used as evidence, when — disclosure of additional evidence to defendant.
- 542.414. Suppression of contents, grounds — right of state to appeal suppression motion, when.
- 542.416. Reports to state courts administrator required, when, contents, who must report — state courts administrator to report to general assembly, when — rules and regulations.
- 542.418. Use of contents of wiretap in civil action, limitations on — illegal wiretap, cause of action, damages, attorney fees and costs — good faith reliance on court order a prima facie defense.
- 542.420. Evidence obtained in violation of law may not be used.
- 542.422. Injunctions of felony violations of sections 542.400 to 542.424, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 44.010, 44.023, 190.500, 306.124, 307.177, 407.472, 473.697, 490.620, 542.400, 542.402, 542.404, 542.406, 542.408, 542.410, 542.412, 542.414, 542.416, 542.418, 542.420, 542.422, 570.030, 571.020, 574.105, 574.115, 575.080, 578.008 and 610.021, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 38.050, 44.010, 44.023, 190.500, 195.041, 304.370, 306.124, 307.177, 407.472, 473.697, 490.620, 542.400, 542.402, 542.404, 542.406, 542.408, 542.410, 542.412, 542.414, 542.416, 542.418, 542.420, 542.422, 569.072, 570.030, 571.020, 574.105, 574.115, 575.080, 576.080, 578.008 and 610.021, to read as follows:

38.050. JOINT COMMITTEE ON TERRORISM, BIOTERRORISM, AND HOMELAND SECURITY ESTABLISHED, MEMBERS, DUTIES, MEETINGS, EXPENSES, REPORT — EXPIRES, WHEN. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Terrorism, Bioterrorism, and Homeland Security" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

- (1) Make a continuing study and analysis of all state government terrorism, bioterrorism, and homeland security efforts;
- (2) Devise a standard reporting system to obtain data on each state government agency that will provide information on each agency's terrorism and bioterrorism preparedness, and homeland security status at least biennially;
- (3) Determine from its study and analysis the need for changes in statutory law; and
- (4) Make any other recommendation to the general assembly necessary to provide adequate terrorism and bioterrorism protections, and homeland security to the citizens of the state of Missouri.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the

senate and the other a member of the house of representatives. The chairperson shall alternate between members of the house and senate every two years after the committee's organization.

4. The committee shall meet at least quarterly. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on December 31, 2007.

44.010. DEFINITIONS. — As used in sections 44.010 to 44.130, the following terms mean:

(1) "Agency", the state emergency management agency;

(2) **"Bioterrorism", the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population;**

(3) "Director", the director of the state emergency management agency;

[(3)] (4) "Disasters", disasters which may result from terrorism, **including bioterrorism**, or from fire, wind, flood, earthquake, or other natural or man-made causes;

[(4)] (5) "Economic or geographic area", an area or areas within the state, or partly in this state and adjacent states, comprising political subdivisions grouped together for purposes of administration, organization, control or disaster recovery and rehabilitation in time of emergency;

[(5)] (6) "Emergency", any state of emergency declared by proclamation by the governor, or by resolution of the legislature pursuant to sections 44.010 to 44.130 upon the actual occurrence of a natural or man-made disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized;

[(6)] (7) "Emergency management", government at all levels performing emergency functions, other than functions for which military forces are primarily responsible;

[(7)] (8) "Emergency management functions", "emergency management activities" and "emergency management service", those functions required to prepare for and carry out actions to prevent, minimize and repair injury and damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, either on order of or at the request of the federal government, or in the event the federal government is incapable of administering such control;

[(8)] (9) "Emergency resources planning and management", planning for, management and coordination of national, state and local resources;

[(9)] (10) "Executive officer of any political subdivision", the county commission or county supervisor or the mayor or other manager of the executive affairs of any city, town, village or fire protection district;

[10] (11) "Local organization for emergency management", any organization established under this law by any county or by any city, town, or village to perform local emergency management functions;

[11] (12) "Management", the activities of the emergency management director in the implementation of emergency operations plans during time of emergency;

[12] (13) "Planning", activities of the state and local emergency management agency in the formulation of emergency management plans to be used in time of emergency;

[13] (14) "Political subdivision", any county or city, town or village, or any fire district created by law.

44.023. DISASTER VOLUNTEER PROGRAM ESTABLISHED, AGENCY'S DUTIES — EXPENSES — IMMUNITY FROM LIABILITY, EXCEPTION. — 1. The Missouri state emergency management agency shall establish and administer an emergency volunteer program to be activated in the event of [an earthquake or other natural] a disaster whereby volunteer architects and professional engineers registered under chapter 327, RSMo, and construction contractors, equipment dealers and other owners and operators of construction equipment may volunteer the use of their services and equipment, either manned or unmanned, for up to three days as requested and needed by the state emergency management agency.

2. In the event of [an earthquake or other natural] a disaster, the enrolled volunteers shall, where needed, assist local jurisdictions and local building inspectors to provide essential demolition, cleanup or other related services and to determine whether buildings affected by [an earthquake or other natural] a disaster:

- (1) Have not sustained serious damage and may be occupied;
- (2) Must be vacated temporarily pending repairs; or
- (3) Must be demolished in order to avoid hazards to occupants or other persons.

3. Any person when utilized as a volunteer under the emergency volunteer program shall have his incidental expenses paid by the local jurisdiction for which the volunteer service is provided.

4. Architects and professional engineers, construction contractors, equipment dealers and other owners and operators of construction equipment and the companies with which they are employed, working under the emergency volunteer program shall not be personally liable either jointly or separately for any act or acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

5. Any individuals, employers, partnerships, corporations or proprietorships, that are working under the emergency volunteer program providing demolition, cleanup, removal or other related services, shall not be liable for any acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

190.500. TEMPORARY LICENSE — QUALIFIED HEALTH CARE PROFESSIONS — DECLARED EMERGENCY. — 1. Notwithstanding any other provision of law to the contrary, a temporary license may be issued for no more than a twelve-month period by the appropriate licensing board to any otherwise qualified health care professional licensed **and in good standing** in another state and who meets such other requirements as the licensing board may prescribe by rule and regulation, if the health care professional:

- (1) Is acting pursuant to federal military orders under Title X for active duty personnel or Title XXXII for [military reservists] **national guard members**; and
- (2) Is enrolled in an accredited training program for trauma treatment and disaster response in a hospital in this state; or

(3) **If the health care professional is acting pursuant to the governor's declaration of an emergency as defined in section 44.010, RSMo, such temporary licensure shall be**

issued pursuant to this subdivision for a two-week period and, upon license verification, may be reissued every two weeks thereafter.

2. Licensure information and confirmation of health care professionals acting pursuant to this section may be obtained by any available means, including electronic mail.

3. For purposes of this section, the term "health care professional" shall have the same meaning as such term is defined in section 383.130, RSMo.

195.041. EMERGENCIES, WAIVER OF REGISTRATION AND RECORD-KEEPING REQUIREMENTS FOR CONTROLLED SUBSTANCES, WHEN. — In the event of an emergency as defined in section 44.010, RSMo, the department of health and senior services may waive the registration and record keeping requirements set forth in sections 195.010 to 195.100, RSMo, and their attendant regulations if the department determines such a waiver would be in the best interest of the public health.

304.370. HAZARDOUS MATERIALS, REQUIREMENTS FOR TRANSPORTATION — VIOLATIONS, PENALTIES. — 1. For purposes of this section, "hazardous materials" shall be as 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.

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 adopted and 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.

306.124. AIDS TO NAVIGATION AND REGULATORY MARKERS DEFINED — WATER PATROL MAY MARK WATERS, HEARING, NOTICE — MARKINGS, EFFECT OF — DISASTER, CLOSING OF CERTAIN WATERS — VIOLATION, PENALTY. — 1. (1) "Aids to navigation" means buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

(2) "Regulatory markers" means any anchored or fixed markers in or on the water or signs on the shore or on bridges over the water other than aids to navigation and shall include but not be limited to bathing markers, speed zone markers, information markers, danger zone markers, boat keep-out areas, and mooring buoys.

2. The Missouri state water patrol after a public hearing pursuant to notice thereof published not less than ten days prior thereto in each county to be affected may provide for the uniform marking of the water areas in this state through the placement of aids to navigation and regulatory markers. The Missouri state water patrol shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard. No city, county, or person shall mark or obstruct the water of this state in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the state water patrol.

3. Whenever, due to any actual or imminent man-made or natural disaster, the navigation or use of any waters of this state presents an unreasonable danger to persons or property, the Missouri state water patrol may, with the consent of the director of the department of public safety, close such waters by the placement of regulatory markers.

[3.] 4. The operation of any watercraft within prohibited areas that are marked shall be prima facie evidence of negligent operation.

[4.] 5. It shall be unlawful for any person to operate a watercraft on the waters of this state in a manner other than that prescribed or permitted by regulatory markers.

[5.] 6. No person shall moor or fasten a watercraft to or willfully damage, tamper, remove, obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to sections 306.010 to 306.126.

307.177. TRANSPORTING HAZARDOUS MATERIALS, EQUIPMENT REQUIRED — FEDERAL PHYSICAL REQUIREMENTS NOT APPLICABLE, WHEN — VIOLATIONS, PENALTY. — 1. It is unlawful for any person to operate any bus, truck, truck-tractor and trailer combination, or other commercial motor vehicle and trailer upon any highway of this state, whether intrastate transportation or interstate transportation, transporting materials defined and classified as hazardous by the United States Department of Transportation pursuant to Title 49 of the Code of Federal Regulations, as such regulations have been and may periodically be amended, unless such vehicle is equipped with the equipment required by and be operated in accordance with safety and hazardous materials regulations for such vehicles as adopted by the United States Department of Transportation.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988.

3. Failure to comply with the requirements of this section may result in the commercial motor vehicle and trailer and driver of such vehicle and trailer being placed out of service. Criteria used for placing drivers and vehicles out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

4. Violation of this section shall be deemed a class A misdemeanor.

407.472. INVESTIGATIONS BY ATTORNEY GENERAL — INVESTIGATIVE DEMAND, HOW SERVED — INJUNCTION, PROCEDURE. — 1. When it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any method, use, act or practice declared to be unlawful by sections 407.450 to 407.478, **or when it appears that any funds solicited by or on behalf of any charitable organization are being used, or are about to be used, for any purpose in violation of this chapter or section 576.080, RSMo,** or when he or she believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in any such act or practice he or she may issue and cause to be served a civil investigative demand to assist in the investigation of the matter. The issuance and enforcement of each civil investigative demand shall be in compliance with all of the terms and provisions of sections 407.040 to 407.090.

2. Whenever it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any method, use, act, or practice declared to be unlawful by sections 407.450 to 407.478, **or when it appears that any funds solicited by or on behalf of any charitable organization are being used, or are about to be used, for any purpose in violation of this chapter or section 576.080, RSMo,** he or she may bring an action pursuant to section 407.100 for an injunction prohibiting such person from continuing such methods, uses, acts, or practices, or engaging therein, or doing anything in furtherance thereof. In any action brought by the attorney general [under] **pursuant to** this subsection all of the provisions of sections 407.100 to 407.140 shall apply thereto.

473.697. LETTERS OF ADMINISTRATION FOR PERSONS ABSENT FOR FIVE OR MORE YEARS — APPLICATION — NOTICE — HEARING. — Whenever application shall be made to any probate division for letters of administration upon the estate of any person supposed to be

dead, because of the absence of such person for five consecutive years from the place of his last known domicile within this state, **or because such person was exposed to a specific peril of death due to a terrorist event**, or because, having been a resident of this state, such person has heretofore gone from and has not returned to this state for five consecutive years, or, because, having been such resident of this state, such person shall hereafter go from and shall not return to this state for five consecutive years, or, because being a resident of this state, such person shall have so concealed or conducted himself within this state that he shall not have been heard of for five consecutive years by the judge of the probate division having jurisdiction of his estate, or by the persons interested therein, then said court, if satisfied that the applicant would be entitled to such letters if the supposed decedent were in fact dead, shall cause a notice to such supposed deceased person to be published in a newspaper, published in the county, once a week for four consecutive weeks, setting forth the fact that such application has been made, together with notice that on a day certain, which shall be at least two weeks after the last publication of such notice, the court will hear evidence concerning the alleged absence of the supposed decedent, and the circumstances and duration thereof. The persons applying for such letters of administration shall file a petition stating the facts upon which such application is based and the place where such supposed deceased person resided when last heard from by him or by any person within his knowledge.

490.620. PERSON, WHEN PRESUMED TO BE DEAD. — If any person who shall have resided in this state [go] **goes** from and [do] **does** not return to this state for five successive years, he **or she** shall be presumed to be dead in any case wherein his **or her** death shall come in question, unless proof be made that he **or she** was alive within that time. **The fact that such person was exposed to a specific peril of death due to a terrorist event may be a sufficient basis for determining at any time after such exposure that he or she died less than five years after the date his or her absence commenced.**

542.400. DEFINITIONS. — As used in sections 542.400 to 542.422, the following words and phrases mean:

- (1) "Aggrieved person", a person who was a party to any intercepted wire communication or a person against whom the interception was directed;
- (2) "Communication common carrier", an individual or corporation undertaking to transport messages for compensation;
- (3) "Contents", when used with respect to any wire communication, includes any information concerning the identity of the parties, the substance, purport, or meaning of that communication;
- (4) "Court of competent jurisdiction", any circuit court having general criminal jurisdiction within the territorial jurisdiction where the communication is to be intercepted including any circuit judge specially assigned by the supreme court of Missouri pursuant to section 542.404;
- (5) "Electronic, mechanical, or other device", any device or apparatus which can be used to intercept a wire communication other than:
 - (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, owned by the user or furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or being used by a communications common carrier in the ordinary course of its business or by an investigative office or law enforcement officer in the ordinary course of his duties; or
 - (b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(6) "Intercept", the aural acquisition of the contents of any wire communication through the use of any electronic or mechanical device, including but not limited to interception by one spouse of another spouse;

(7) "Investigative officer" or "law enforcement officer or agency", any officer or agency of this state or a political subdivision of this state, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in sections 542.400 to 542.422, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) "Oral communication", any communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

(9) "Person", any employee, or agent of this state or political subdivision of this state, and any individual, partnership, association, joint stock company, trust, or corporation;

(10) "Prosecuting attorney", the elected prosecuting attorney of the county or the circuit attorney of any city not contained within a county;

(11) "State", state of Missouri and political subdivisions of the state;

(12) "Wire communication", any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception including the use of such connection in a switching station furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of local, state or interstate communications.

542.402. PENALTY FOR ILLEGAL WIRETAPPING, PERMITTED ACTIVITIES. — 1. Except as otherwise specifically provided in sections 542.400 to 542.422, a person is guilty of a class D felony and upon conviction shall be punished as provided by law, if such person:

(1) Knowingly intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire communication;

(2) Knowingly uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when such device transmits communications by radio or interferes with the transmission of such communication; provided, however, that nothing in sections 542.400 to 542.422 shall be construed to prohibit the use by law enforcement officers of body microphones and transmitters in undercover investigations for the acquisition of evidence and the protection of law enforcement officers and others working under their direction in such investigations;

(3) Knowingly discloses, or endeavors to disclose, to any other person the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection; or

(4) Knowingly uses, or endeavors to use, the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection.

2. It is not unlawful under the provisions of sections 542.400 to 542.422:

(1) For an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication, however, communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks;

(2) For a person acting under law to intercept a wire or oral communication, where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception;

(3) For a person not acting under law to intercept a wire communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act.

542.404. APPLICATION FOR AN ORDER — AUTHORIZATION BY ATTORNEY GENERAL — APPROVAL BY JUDGE, PROBABLE CAUSE REQUIRED. — 1. The elected prosecuting attorney of the county with the written authorization of the attorney general of the state of Missouri may make application for an order authorizing the interception of a wire communication. The supreme court of Missouri, upon notice that the attorney general of the state of Missouri has authorized application for an interception of a wire communication, shall appoint a circuit court from a circuit other than the circuit where the application originates to approve or deny the application and to issue any necessary orders. Such court may grant in conformity with sections 542.400 to 542.422, an order authorizing the interception of wire communications by the law enforcement agency having responsibility for the investigation of the offense if there is probable cause to believe that the interception may provide evidence of a felony which involves the manufacture or distribution of a controlled substance, as the term is defined by section 195.016, or the felony of murder, arson, or kidnapping, or a terrorist threat as defined in section 574.115, or any conspiracy to commit any of the foregoing.

2. Any order entered pursuant to the provisions of sections 542.400 to 542.422 shall require live monitoring by appropriate law enforcement personnel of the interception of any wire communication.

542.406. DISCLOSURE OF CONTENTS — PRIVILEGED COMMUNICATIONS. — 1. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.422, has lawfully obtained knowledge of the contents of any wire communication, or evidence derived therefrom, may disclose such contents to another investigative officer or law enforcement officer to the extent that such disclosure is necessary to the proper performance of the official duties of the officer making or receiving the disclosure for investigative purposes only.

2. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.422, has lawfully obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may use such contents to the extent such use is necessary to the proper performance of his official duties.

3. Any person who has received, by any means authorized by sections 542.400 to 542.422, any information concerning a wire communication, or evidence derived therefrom, intercepted in accordance with the provisions of sections 542.400 to 542.422 shall disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding, including deposition in any court or in any grand jury proceeding, subject to the rules of evidence.

4. No otherwise privileged wire communication intercepted in accordance with, or in violation of, the provisions of sections 542.400 to 542.422 shall lose its privileged character and shall be suppressed upon motion.

542.408. APPLICATION, CONTENTS — EX PARTE ORDER ISSUED, WHEN, CONTENTS, EXTENSIONS GRANTED, WHEN — REPORTS, COURT MAY REQUIRE, WHEN — PEN REGISTERS, WHO MAY REQUEST — COMMUNICATION, COMMON CARRIERS MAY PROVIDE AID, IMMUNITY FROM SUIT, COMPENSATION. — 1. Each application for an order authorizing

or approving the interception of a wire communication shall be made in writing and shall be submitted to the attorney general for his review and approval. If the attorney general approves the application, he shall join such application, which shall be submitted upon oath or affirmation to a court of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(1) The identity of the prosecuting attorney making the application together with the identities of the law enforcement agency or agencies that are to conduct the interception;

(2) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including:

(a) Details as to the particular offense that has been, is being, or is about to be committed;

(b) A particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

(c) A particular description of the type of communications sought to be intercepted; and

(d) The identity of the person and employment, if known, committing the offense and whose communications are to be intercepted;

(e) That the application is sought solely for detection of the crimes enumerated in section 542.404;

(3) A full and complete statement as to whether other investigative procedures have been tried and failed, or why they reasonably appear to be unlikely to succeed if tried, or to be too dangerous;

(4) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for the interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(5) A full and complete statement of the facts concerning all previous applications known or available to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire communications involving any of the same persons, facilities or places specified in the application, and the action taken by the court on each such application;

(6) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or an explanation of the failure to obtain such results; and

(7) A statement that adequate resources are available to perform the interception and the estimated number of persons required to accomplish the interception.

2. The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

3. Upon such application the court may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire communications within the territorial jurisdiction of the court, if the court determines on the basis of the facts submitted by the applicant that:

(1) Probable cause exists to believe that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 542.404;

(2) Probable cause exists to believe that particular communications concerning that offense will be obtained through such interception;

(3) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(4) Probable cause exists to believe that the facilities from which, or the place where, the wire communications are to be intercepted are being used, or are about to be used, in

connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

4. Each order authorizing or approving the interception of any wire communication shall specify:

(1) The identity of the person and employment, if known, whose communications are to be intercepted;

(2) The nature and location of the communication facilities as to which, or the place where, authority to intercept is granted including whether the interception involves a cellular or other wireless device;

(3) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(4) The identity of the agency authorized to intercept the communications, and of the person authorizing the application;

(5) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

5. No order entered under this section may authorize or approve the interception of any wire communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection 1 of this section and the court making the findings required by subsection 3 of this section. The period of extension shall be no longer than the court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under sections 542.400 to 542.422, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

6. Whenever an order authorizing interception is entered pursuant to the provisions of sections 542.400 to 542.422, the order may require reports to be made to the court who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require, but in no case longer than thirty days.

7. Notwithstanding any other provisions of sections 542.400 to 542.422, any law enforcement officer with the approval of the prosecuting attorney may request an order of an appropriate court whenever reasonable grounds therefor exist to have a pen register placed in effect, which pen register will only determine the phone number to which the call is placed.

8. Notwithstanding any other provision of law to the contrary, communication common carriers, and their officers, employees and agents, may provide information, facilities or technical assistance to persons authorized by law to intercept wire communications, if the communication common carrier, its officers, employees or agents have been provided with a court order directing such assistance signed by the authorizing court. The court order shall set forth the period of time during which the provision of the information, facilities or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No cause of action shall lie in any court against any communication common carrier, its officers, employees, and agents for providing information, facilities or assistance in accordance with the terms of an order under this subsection. Any communication common carrier furnishing such facilities or technical assistance shall be compensated therefor by the prosecuting attorney at the prevailing rates.

542.410. RECORDING OF CONTENTS, REQUIRED, HOW, CUSTODY OF, DUPLICATION, DESTRUCTION OF — APPLICATIONS AND ORDERS SEALED BY COURT, DISCLOSURE, WHEN, DESTRUCTION OF — PENALTY — NOTICE TO PERSONS NAMED IN ORDER, WHEN, RIGHT TO INSPECT AND COPY CONTENTS. — 1. The contents of any wire communication intercepted by any means authorized by sections 542.400 to 542.422 shall be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication as required by this section shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the court issuing such order and shall be sealed under its directions. Custody of the recordings shall be wherever the court orders. The recordings shall not be destroyed except upon an order of the issuing court and in any event shall be kept for ten years. Duplicate recordings shall be made for use for disclosure pursuant to the provisions of subsections 1 and 2 of section 542.406 for investigations and discovery in accordance with applicable supreme court rules. The presence of the seal provided for by subsection 2 of this section, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire communication or evidence derived therefrom under the provisions of subsection 3 of section 542.406.

2. Applications made and orders granted under sections 542.400 to 542.422 shall be sealed by the court. Custody of the applications and orders shall be wherever the court directs. Such applications and orders shall be disclosed only upon a showing of good cause before a court of competent jurisdiction and shall not be destroyed except on order of the issuing or denying court, and in any event shall be kept for ten years.

3. Any violation of the provisions of this section shall be punishable as a class A misdemeanor.

4. Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under the provisions of sections 542.400 to 542.422 or the termination of the period of an order or extensions thereof, whichever is later, the issuing or denying court shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications an inventory which shall include notice of:

- (1) The fact of the entry of the order or the application;
- (2) The date of the entry and the period of authorized, approved interception;
- (3) The fact that during the period oral communications were or were not intercepted; and
- (4) The nature of said conversations.

The court, upon the filing of a motion, shall make available to such person or his counsel for inspection and copying such intercepted communications, applications and orders.

542.412. CONTENTS MAY BE USED AS EVIDENCE, WHEN — DISCLOSURE OF ADDITIONAL EVIDENCE TO DEFENDANT. — 1. The contents of any intercepted wire communications or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in federal or state court nor in any administrative proceeding unless each party, in compliance with supreme court rules relating to discovery in criminal cases, hearings and proceedings, has been furnished with a copy of the court order and accompanying application under which the interception was authorized or approved and a transcript of any intercepted wire communication or evidence derived therefrom.

2. If the defense in its request designates material or information not in the possession or control of the state, but which is, in fact, in the possession or control of other governmental personnel, the state shall use diligence and make good faith efforts to cause such materials to be made available to the defendant's counsel, and if the state's efforts are

unsuccessful and such material or other governmental personnel are subject to the jurisdiction of the court, the court, upon request, shall issue suitable subpoenas or orders to cause such material or information to be made available to the state for disclosure to the defense.

542.414. SUPPRESSION OF CONTENTS, GROUNDS — RIGHT OF STATE TO APPEAL SUPPRESSION MOTION, WHEN. — 1. Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, the state, or a political subdivision thereof, may move to suppress the contents of any intercepted wire communication, or evidence derived therefrom, on the grounds that:

- (1) The communication was unlawfully intercepted;
- (2) The order of authorization or approval under which it was intercepted is insufficient on its face;
- (3) The interception was not made in conformity with the order of authorization or approval; or
- (4) The communication was intercepted in violation of the provisions of the Constitution of the United States or the state of Missouri or in violation of a state statute. Such motion shall be made before the trial, hearing, or proceeding unless there was no reasonable opportunity to make such motion or the person was not aware of the existence of grounds for the motion. If the motion is granted, the contents of the intercepted wire communication, or evidence derived therefrom or the contents of any communication intercepted as a result of any extension of the original order authorizing or approving the interception of wire communication, and any evidence derived therefrom, shall be treated as having been obtained in violation of sections 542.400 to 542.422.

2. In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under subsection 1 of this section if the prosecuting attorney shall certify to the court or other official granting such motion that the appeal be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

542.416. REPORTS TO STATE COURTS ADMINISTRATOR REQUIRED, WHEN, CONTENTS, WHO MUST REPORT — STATE COURTS ADMINISTRATOR TO REPORT TO GENERAL ASSEMBLY, WHEN — RULES AND REGULATIONS. — 1. Within thirty days after the expiration of an order or each extension thereof entered pursuant to the provisions of section 542.408, the issuing court shall report to the state courts administrator:

- (1) The fact that an order or extension was applied for;
- (2) The kind of order or extension applied for;
- (3) The fact that the order or extension was granted as applied for, was modified, or was denied;
- (4) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (5) The offense specified in the order or application, or extension of an order;
- (6) The identity of the applying investigative officer or law enforcement officer and agency making the application and the person authorizing the application; and
- (7) The nature of the facilities from which or the place where communications were to be intercepted.

2. In January of each year, the principal prosecuting attorney for any political subdivision of the state shall report to the state courts administrator:

- (1) The information required by subdivisions (1) through (7) of subsection 1 of this section with respect to each application for an order or extension made during the preceding calendar year;

(2) A general description of the interceptions made under such order or extension, including:

(a) The approximate nature and frequency of incriminating communications intercepted;

(b) The approximate nature and frequency of other communications intercepted;

(c) The approximate number of persons whose communications were intercepted; and

(d) The approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(3) The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(4) The number of trials resulting from such interceptions;

(5) The number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(6) The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(7) The information required by subdivisions (2) through (6) of this subsection with respect to orders or extensions obtained in the preceding calendar year.

3. In April of each year the state courts administrator shall transmit to the Missouri general assembly a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire communications and the number of orders and extensions granted or denied during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the state courts administrator by subsections 1 and 2 of this section. The state courts administrator may promulgate rules and regulations dealing with the content and form of the reports required to be filed by subsections 1 and 2 of this section.

542.418. USE OF CONTENTS OF WIRETAP IN CIVIL ACTION, LIMITATIONS ON — ILLEGAL WIRETAP, CAUSE OF ACTION, DAMAGES, ATTORNEY FEES AND COSTS — GOOD FAITH RELIANCE ON COURT ORDER A PRIMA FACIE DEFENSE. — 1. The contents of any wire communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any civil or administrative proceeding, except in civil actions brought pursuant to this section.

2. Any person whose wire communication is intercepted, disclosed, or used in violation of sections 542.400 to 542.422 shall:

(1) Have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications; and

(2) Be entitled to recover from any such person:

(a) Actual damages, but not less than liquidated damages computed at the rate of one hundred dollars a day for each day of violation or ten thousand dollars whichever is greater;

(b) Punitive damages on a showing of a willful or intentional violation of sections 542.400 to 542.422; and

(c) A reasonable attorney's fee and other litigation costs reasonably incurred.

3. A good faith reliance on a court order or on the provisions of section 542.408 shall constitute a prima facie defense to any civil or criminal action brought under sections 542.400 to 542.422.

4. Nothing contained in this section shall limit any cause of action available prior to August 28, 1989.

542.420. EVIDENCE OBTAINED IN VIOLATION OF LAW MAY NOT BE USED. — Whenever any wire communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or a political subdivision thereof if the disclosure of that information would be in violation of sections 542.400 to 542.422.

542.422. INJUNCTIONS OF FELONY VIOLATIONS OF SECTIONS 542.400 TO 542.424, PROCEDURE. — Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of sections 542.400 to 542.422, the attorney general may initiate a civil action in a circuit court to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the state or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the rules of civil procedure except that, if an indictment has been returned against the respondent, discovery is governed by the rules of criminal procedure.

569.072. WATER CONTAMINATION, PENALTY. — 1. A person commits the crime of criminal water contamination if such person knowingly introduces any dangerous radiological, chemical or biological agent or substance into any public or private waters of the state or any water supply with the purpose of causing death or serious physical injury to another person.

2. Criminal water contamination is a class B felony.

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] pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

3. Stealing is a class C felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; 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) Ammonium nitrate.

4. If an actor appropriates any material with a value less than one 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 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 violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

571.020. POSSESSION — MANUFACTURE — TRANSPORT — REPAIR — SALE OF CERTAIN WEAPONS A CRIME — EXCEPTIONS — PENALTIES. — 1. A person commits a crime if [he] such person knowingly possesses, manufactures, transports, repairs, or sells:

(1) An explosive weapon;

(2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;

[2)] **(3)** A machine gun;

[3)] **(4)** A gas gun;

[4)] **(5)** A short barreled rifle or shotgun;

[5)] **(6)** A firearm silencer;

[6)] **(7)** A switchblade knife;

[7)] **(8)** A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or

[8)] **(9)** Knuckles.

2. A person does not commit a crime [under] pursuant to this section if his conduct:

(1) Was incident to the performance of official duty by the armed forces, national guard, a governmental law enforcement agency, or a penal institution; or

(2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subdivision (1) of this section; or

(3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or

(4) Was incident to displaying the weapon in a public museum or exhibition; or

(5) Was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is a type described in subdivision (1), [(3) or (5)] **(4) or (6)** of subsection 1 of this section it must be in such a nonfunctioning condition that it cannot readily be made operable. No short barreled

rifle, short barreled shotgun, or machine gun may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake, unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C., Title 18, or unless such firearm is an "antique firearm" as defined in subsection 3 of section 571.080, or unless such firearm has been designated a "collectors item" by the Secretary of the Treasury pursuant to the U.S.C., Title 26, Section 5845 (a).

3. A crime [under] **pursuant to** subdivision (1), (2), (3), (4) [or], (5) **or (6)** of subsection 1 of this section is a class C felony; a crime [under] **pursuant to** subdivision [(6),] (7) [or], (8) or (9) of subsection 1 of this section is a class A misdemeanor.

574.105. CRIME OF MONEY LAUNDERING, COMMITTED, WHEN — PENALTY. — 1. As used in this section, the following terms mean:

(1) "Conducts", initiating, concluding or participating in initiating or concluding a transaction;

(2) "Criminal activity", any act or activity constituting an offense punishable as a felony pursuant to the laws of Missouri or the United States;

(3) "Currency", currency and coin of the United States;

(4) "Currency transaction", a transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer or other written order, and which does not include the physical transfer of currency is not a currency transaction;

(5) "Person", natural persons, partnerships, trusts, estates, associations, corporations and all entities cognizable as legal personalities.

2. A person commits the crime of money laundering if he:

(1) Conducts or attempts to conduct a currency transaction [involving the proceeds of criminal activity] with the purpose to promote or aid the carrying on of criminal activity; or

(2) Conducts or attempts to conduct a currency transaction with the purpose to conceal or disguise in whole or in part the nature, location, source, ownership or control of the proceeds of criminal activity; or

(3) Conducts or attempts to conduct a currency transaction with the purpose to avoid currency transaction reporting requirements under federal law; **or**

(4) Conducts or attempts to conduct a currency transaction with the purpose to promote or aid the carrying on of criminal activity for the purpose of furthering or making a terrorist threat or act.

3. The crime of money laundering is a class B felony and in addition to penalties otherwise provided by law, a fine of not more than five hundred thousand dollars or twice the amount involved in the transaction, whichever is greater, may be assessed.

574.115. MAKING A TERRORIST THREAT, PENALTY. — 1. A person commits the crime of making a [terroristic] **terrorist** threat if such person communicates a threat to [commit a felony,] **cause an incident or condition involving danger to life, communicates** a knowingly false report [concerning the commission of any felony] **of an incident or condition involving danger to life,** or knowingly [false report concerning the occurrence of any catastrophe] **causes a false belief or fear that an incident has occurred or that a condition exists involving danger to life:**

(1) [For] **With** the purpose of frightening [or disturbing] ten or more people;

(2) [For] **With** the purpose of causing the evacuation, **quarantine** or closure of any **portion of a** building, inhabitable structure, place of assembly or facility of transportation; or

(3) With reckless disregard of the risk of causing the evacuation, **quarantine** or closure of any **portion of a** building, inhabitable structure, place of assembly or facility of transportation; **or**

(4) With criminal negligence with regard to the risk of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation.

2. Making a [terroristic] **terrorist** threat is a class C felony unless committed under subdivision (3) of subsection 1 of this section in which case it is a class D felony **or unless committed under subdivision (4) of subsection 1 of this section in which case it is a class A misdemeanor.**

3. [As used in this section:

(1) The term "threat" means an express or implied threat but does not include a report made in good faith for the purpose of preventing harm; and

(2) The term "catastrophe" is defined by section 569.070, RSMo] **For the purpose of this section, "threat" includes an express or implied threat.**

4. A person who acts in good faith with the purpose to prevent harm does not commit a crime pursuant to this section.

575.080. FALSE REPORTS. — 1. A person commits the crime of making a false report if he knowingly:

(1) Gives false information to [a law enforcement officer] **any person** for the purpose of implicating another person in a crime; or

(2) Makes a false report to a law enforcement officer that a crime has occurred or is about to occur; or

(3) Makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred **or is about to occur.**

2. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement or report before the law enforcement officer or any other person took substantial action in reliance thereon.

3. The defendant shall have the burden of injecting the issue of retraction under subsection 2 of this section.

4. Making a false report is a class B misdemeanor.

576.080. SUPPORTING TERRORISM—DEFINITION OF MATERIAL SUPPORT—PENALTY. — 1. **A person commits the crime of supporting terrorism if such person knowingly provides material support to any organization designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189, as amended and acts recklessly with regard to whether such organization had been designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189.**

2. **For the purpose of this section, "material support" includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials.**

3. **Supporting terrorism is a class C felony.**

578.008. AGROTERRORISM, CRIME OF — PENALTY — DEFENSES. — 1. A person commits the crime of [spreading disease to livestock or animals] **agroterrorism** if [that] **such** person purposely spreads any type of contagious, communicable or infectious disease among **crops, poultry**, livestock as defined in section 267.565, RSMo, or other animals.

2. [Spreading disease to livestock or animals] **Agroterrorism** is a class D felony unless the damage to **crops, poultry**, livestock or animals is ten million dollars or more in which case it is a class B felony.

3. It shall be a defense to the crime of [spreading disease to livestock or animals] **agroterrorism** if such spreading is consistent with medically recognized therapeutic procedures **or done in the course of legitimate, professional scientific research.**

610.021. CLOSED MEETINGS AND CLOSED RECORDS AUTHORIZED WHEN, EXCEPTIONS.

— Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public within seventy-two hours after execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body must be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(10) Software codes for electronic data processing and documentation thereof;

(11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hot lines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; [and]

(18) [In preparation for and implementation of electric restructuring, a municipal electric utility may close that portion of its financial records and business plans which contains information regarding the name of the suppliers of services to said utility and the cost of such services, and the records and business plans concerning the municipal electric utility's future marketing and service expansion areas. However, this exception shall not be construed to limit access to other records of a municipal electric utility, including but not limited to the names and addresses of its business and residential customers, its financial reports, including but not limited to its budget, annual reports and other financial statements prepared in the course of business, and other records maintained in the course of doing business as a municipal electric utility. This exception shall become null and void if the state of Missouri fails to implement by December 31, 2001, electric restructuring through the adoption of statutes permitting the same in this state] **A municipal utility receiving a public records request for information about existing or proposed security systems and structural plans of real property owned or leased by the municipal utility, the public disclosure of which would threaten public safety, shall within three business days act upon such public records request, pursuant to section 610.023. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section;**

(19) **Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2006;**

(20) **Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network, of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network, shall be open except to the extent provided in this section; and**

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

[542.400. DEFINITIONS. — As used in sections 542.400 to 542.424, the following words and phrases mean:

(1) "Aggrieved person", a person who was a party to any intercepted wire communication or a person against whom the interception was directed;

(2) "Communication common carrier", an individual or corporation undertaking to transport messages for compensation;

(3) "Contents", when used with respect to any wire communication, includes any information concerning the identity of the parties, the substance, purport, or meaning of that communication;

(4) "Court of competent jurisdiction", any circuit court having general criminal jurisdiction within the territorial jurisdiction where the communication is to be intercepted including any circuit judge specially assigned by the supreme court of Missouri pursuant to section 542.404;

(5) "Electronic, mechanical, or other device", any device or apparatus which can be used to intercept a wire communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, owned by the user or furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or being used by a communications common carrier in the ordinary course of its business or by an investigative office or law enforcement officer in the ordinary course of his duties; or

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(6) "Intercept", the aural acquisition of the contents of any wire communication through the use of any electronic or mechanical device, including but not limited to interception by one spouse of another spouse;

(7) "Investigative officer" or "law enforcement officer or agency", any officer or agency of this state or a political subdivision of this state, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in sections 542.400 to 542.424, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) "Oral communication", any communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

(9) "Person", any employee, or agent of this state or political subdivision of this state, and any individual, partnership, association, joint stock company, trust, or corporation;

(10) "Prosecuting attorney", the elected prosecuting attorney of the county or the circuit attorney of any city not contained within a county;

(11) "State", state of Missouri and political subdivisions of the state;

(12) "Wire communication", any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception including the use of such connection in a switching station furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of local, state or interstate communications.]

[542.402. PENALTY FOR ILLEGAL WIRETAPPING, PERMITTED ACTIVITIES. — 1. Except as otherwise specifically provided in sections 542.400 to 542.424, a person is guilty of a class D felony and upon conviction shall be punished as provided by law, if such person:

(1) Knowingly intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire communication;

(2) Knowingly uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when such device transmits communications by radio or interferes with the transmission of such communication; provided, however, that nothing in sections 542.400 to 542.424 shall be construed to prohibit the use by law enforcement officers of body microphones and transmitters in undercover investigations for the acquisition of evidence and the protection of law enforcement officers and others working under their direction in such investigations;

(3) Knowingly discloses, or endeavors to disclose, to any other person the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection; or

(4) Knowingly uses, or endeavors to use, the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection.

2. It is not unlawful under the provisions of sections 542.400 to 542.424:

(1) For an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication, however, communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks;

(2) For a person acting under law to intercept a wire or oral communication, where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception;

(3) For a person not acting under law to intercept a wire communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act.]

[542.404. APPLICATION FOR AN ORDER — AUTHORIZATION BY ATTORNEY GENERAL — APPROVAL BY JUDGE, PROBABLE CAUSE REQUIRED. — 1. The elected prosecuting attorney of the county with the written authorization of the attorney general of the state of Missouri may make application for an order authorizing the interception of a wire communication.

The supreme court of Missouri, upon notice that the attorney general of the state of Missouri has authorized application for an interception of a wire communication, shall appoint a circuit court from a circuit other than the circuit where the application originates to approve or deny the application and to issue any necessary orders. Such court may grant in conformity with sections 542.400 to 542.424, an order authorizing the interception of wire communications by the law enforcement agency having responsibility for the investigation of the offense if there is probable cause to believe that the interception may provide evidence of:

(1) A felony which involves the manufacture, importation, receiving, possession, buying, selling, prescription, administration, dispensation, distribution, compounding or otherwise having in a person's control any controlled substance, as the term "controlled substance" is defined by section 195.010, RSMo; or

(2) Any conspiracy to commit any of the offenses listed in subdivision (1) of this subsection.

2. Any order entered pursuant to the provisions of sections 542.400 to 542.424 shall require live monitoring by appropriate law enforcement personnel of the interception of any wire communication.]

[542.406. DISCLOSURE OF CONTENTS — PRIVILEGED COMMUNICATIONS. — 1. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.424, has lawfully obtained knowledge of the contents of any wire communication, or evidence derived therefrom, may disclose such contents to another investigative officer or law enforcement officer to the extent that such disclosure is necessary to the proper performance of the official duties of the officer making or receiving the disclosure for investigative purposes only.

2. Any investigative officer or law enforcement officer who, by any means authorized by sections 542.400 to 542.424, has lawfully obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may use such contents to the extent such use is necessary to the proper performance of his official duties.

3. Any person who has received, by any means authorized by sections 542.400 to 542.424, any information concerning a wire communication, or evidence derived therefrom, intercepted in accordance with the provisions of sections 542.400 to 542.424 shall disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding, including deposition in any court or in any grand jury proceeding, subject to the rules of evidence.

4. No otherwise privileged wire communication intercepted in accordance with, or in violation of, the provisions of sections 542.400 to 542.424 shall lose its privileged character and shall be suppressed upon motion.]

[542.408. APPLICATION, CONTENTS — EX PARTE ORDER ISSUED, WHEN, CONTENTS, EXTENSIONS GRANTED, WHEN — REPORTS, COURT MAY REQUIRE, WHEN — PEN REGISTERS, WHO MAY REQUEST — COMMUNICATION, COMMON CARRIERS MAY PROVIDE AID, IMMUNITY FROM SUIT, COMPENSATION. — 1. Each application for an order authorizing or approving the interception of a wire communication shall be made in writing and shall be submitted to the attorney general for his review and approval. If the attorney general approves the application, he shall join such application, which shall be submitted upon oath or affirmation to a court of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(1) The identity of the prosecuting attorney making the application together with the identities of the law enforcement agency or agencies that are to conduct the interception;

(2) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including:

(a) Details as to the particular offense that has been, is being, or is about to be committed;

(b) A particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

(c) A particular description of the type of communications sought to be intercepted; and

(d) The identity of the person and employment, if known, committing the offense and whose communications are to be intercepted;

(e) That the application is sought solely for detection of:

a. A felony which involves the manufacture, importation, receiving, possession, buying, selling, prescription, administration, dispensation, distribution, compounding or otherwise having in a person's control any controlled substance, as the term "controlled substance" is defined by section 195.010, RSMo; or

b. Any conspiracy to commit any of the offenses listed in subparagraph a of this paragraph;

(3) A full and complete statement as to whether other investigative procedures have been tried and failed, or why they reasonably appear to be unlikely to succeed if tried, or to be too dangerous;

(4) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for the interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(5) A full and complete statement of the facts concerning all previous applications known or available to the individual authorizing and making the application, made to any court for authorization to intercept, or for approval of interceptions of, wire communications involving any of the same persons, facilities or places specified in the application, and the action taken by the court on each such application;

(6) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or an explanation of the failure to obtain such results; and

(7) A statement that adequate resources are available to perform the interception and the estimated number of persons required to accomplish the interception.

2. The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

3. Upon such application the court may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire communications within the territorial jurisdiction of the court, if the court determines on the basis of the facts submitted by the applicant that:

(1) Probable cause exists to believe that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 542.404;

(2) Probable cause exists to believe that particular communications concerning that offense will be obtained through such interception;

(3) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(4) Probable cause exists to believe that the facilities from which, or the place where, the wire communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

4. Each order authorizing or approving the interception of any wire communication shall specify:

(1) The identity of the person and employment, if known, whose communications are to be intercepted;

(2) The nature and location of the communication facilities as to which, or the place where, authority to intercept is granted;

(3) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(4) The identity of the agency authorized to intercept the communications, and of the person authorizing the application;

(5) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

5. No order entered under this section may authorize or approve the interception of any wire communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection 1 of this section and the court making the findings required by subsection 3 of this section. The period of

extension shall be no longer than the court deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under sections 542.400 to 542.424, and shall terminate upon attainment of the authorized objective, or in any event in thirty days.

6. Whenever an order authorizing interception is entered pursuant to the provisions of sections 542.400 to 542.424, the order may require reports to be made to the court who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require, but in no case longer than thirty days.

7. Notwithstanding any other provisions of sections 542.400 to 542.424, any law enforcement officer with the approval of the prosecuting attorney may request an order of an appropriate court whenever reasonable grounds therefor exist to have a pen register placed in effect, which pen register will only determine the phone number to which the call is placed.

8. Notwithstanding any other provision of law to the contrary, communication common carriers, and their officers, employees and agents, may provide information, facilities or technical assistance to persons authorized by law to intercept wire communications, if the communication common carrier, its officers, employees or agents have been provided with a court order directing such assistance signed by the authorizing court. The court order shall set forth the period of time during which the provision of the information, facilities or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No cause of action shall lie in any court against any communication common carrier, its officers, employees, and agents for providing information, facilities or assistance in accordance with the terms of an order under this subsection. Any communication common carrier furnishing such facilities or technical assistance shall be compensated therefor by the prosecuting attorney at the prevailing rates.]

[542.410. RECORDING OF CONTENTS, REQUIRED, HOW, CUSTODY OF, DUPLICATION, DESTRUCTION OF — APPLICATIONS AND ORDERS SEALED BY COURT, DISCLOSURE, WHEN, DESTRUCTION OF — PENALTY — NOTICE TO PERSONS NAMED IN ORDER, WHEN, RIGHT TO INSPECT AND COPY CONTENTS. — 1. The contents of any wire communication intercepted by any means authorized by sections 542.400 to 542.424 shall be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication as required by this section shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the court issuing such order and shall be sealed under its directions. Custody of the recordings shall be wherever the court orders. The recordings shall not be destroyed except upon an order of the issuing court and in any event shall be kept for ten years. Duplicate recordings shall be made for use for disclosure pursuant to the provisions of subsections 1 and 2 of section 542.406 for investigations and discovery in accordance with applicable supreme court rules. The presence of the seal provided for by subsection 2 of this section, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire communication or evidence derived therefrom under the provisions of subsection 3 of section 542.406.

2. Applications made and orders granted under sections 542.400 to 542.424 shall be sealed by the court. Custody of the applications and orders shall be wherever the court directs. Such applications and orders shall be disclosed only upon a showing of good cause before a court of competent jurisdiction and shall not be destroyed except on order of the issuing or denying court, and in any event shall be kept for ten years.

3. Any violation of the provisions of this section shall be punishable as a class A misdemeanor.

4. Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under the provisions of sections 542.400 to 542.424 or the termination of the period of an order or extensions thereof, whichever is later, the issuing or denying court shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications an inventory which shall include notice of:

- (1) The fact of the entry of the order or the application;
- (2) The date of the entry and the period of authorized, approved interception;
- (3) The fact that during the period oral communications were or were not intercepted; and
- (4) The nature of said conversations.

The court, upon the filing of a motion, shall make available to such person or his counsel for inspection and copying such intercepted communications, applications and orders.]

[542.412. CONTENTS MAY BE USED AS EVIDENCE, WHEN — DISCLOSURE OF ADDITIONAL EVIDENCE TO DEFENDANT. — 1. The contents of any intercepted wire communications or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in federal or state court nor in any administrative proceeding unless each party, in compliance with supreme court rules relating to discovery in criminal cases, hearings and proceedings, has been furnished with a copy of the court order and accompanying application under which the interception was authorized or approved and a transcript of any intercepted wire communication or evidence derived therefrom.

2. If the defense in its request designates material or information not in the possession or control of the state, but which is, in fact, in the possession or control of other governmental personnel, the state shall use diligence and make good faith efforts to cause such materials to be made available to the defendant's counsel, and if the state's efforts are unsuccessful and such material or other governmental personnel are subject to the jurisdiction of the court, the court, upon request, shall issue suitable subpoenas or orders to cause such material or information to be made available to the state for disclosure to the defense.]

[542.414. SUPPRESSION OF CONTENTS, GROUNDS — RIGHT OF STATE TO APPEAL SUPPRESSION MOTION, WHEN. — 1. Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, the state, or a political subdivision thereof, may move to suppress the contents of any intercepted wire communication, or evidence derived therefrom, on the grounds that:

- (1) The communication was unlawfully intercepted;
- (2) The order of authorization or approval under which it was intercepted is insufficient on its face;
- (3) The interception was not made in conformity with the order of authorization or approval; or

(4) The communication was intercepted in violation of the provisions of the Constitution of the United States or the state of Missouri or in violation of a state statute. Such motion shall be made before the trial, hearing, or proceeding unless there was no reasonable opportunity to make such motion or the person was not aware of the existence of grounds for the motion. If the motion is granted, the contents of the intercepted wire communication, or evidence derived therefrom or the contents of any communication intercepted as a result of any extension of the original order authorizing or approving the interception of wire communication, and any evidence derived therefrom, shall be treated as having been obtained in violation of sections 542.400 to 542.424.

2. In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under subsection 1 of this section if the prosecuting attorney shall certify to the court or other official granting such motion that the appeal be taken within thirty days after the date the order was entered and shall be diligently prosecuted.]

[542.416. REPORTS TO STATE COURTS ADMINISTRATOR REQUIRED, WHEN, CONTENTS, WHO MUST REPORT — STATE COURTS ADMINISTRATOR TO REPORT TO GENERAL ASSEMBLY, WHEN — RULES AND REGULATIONS. — 1. Within thirty days after the expiration of an order or each extension thereof entered pursuant to the provisions of section 542.408, the issuing court shall report to the state courts administrator:

- (1) The fact that an order or extension was applied for;
- (2) The kind of order or extension applied for;
- (3) The fact that the order or extension was granted as applied for, was modified, or was denied;
- (4) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (5) The offense specified in the order or application, or extension of an order;
- (6) The identity of the applying investigative officer or law enforcement officer and agency making the application and the person authorizing the application; and
- (7) The nature of the facilities from which or the place where communications were to be intercepted.

2. In January of each year, the principal prosecuting attorney for any political subdivision of the state shall report to the state courts administrator:

- (1) The information required by subdivisions (1) through (7) of subsection 1 of this section with respect to each application for an order or extension made during the preceding calendar year;
- (2) A general description of the interceptions made under such order or extension, including:
 - (a) The approximate nature and frequency of incriminating communications intercepted;
 - (b) The approximate nature and frequency of other communications intercepted;
 - (c) The approximate number of persons whose communications were intercepted; and
 - (d) The approximate nature, amount, and cost of the manpower and other resources used in the interceptions;
- (3) The number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;
- (4) The number of trials resulting from such interceptions;
- (5) The number of motions to suppress made with respect to such interceptions, and the number granted or denied;
- (6) The number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and
- (7) The information required by subdivisions (2) through (6) of this subsection with respect to orders or extensions obtained in the preceding calendar year.

3. In April of each year the state courts administrator shall transmit to the Missouri general assembly a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire communications and the number of orders and extensions granted or denied during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the state courts administrator by subsections 1 and 2 of this section. The state courts administrator may promulgate rules and regulations dealing with the content and form of the reports required to be filed by subsections 1 and 2 of this section.]

[542.418. USE OF CONTENTS OF WIRETAP IN CIVIL ACTION, LIMITATIONS ON — ILLEGAL WIRETAP, CAUSE OF ACTION, DAMAGES, ATTORNEY FEES AND COSTS — GOOD FAITH RELIANCE ON COURT ORDER A PRIMA FACIE DEFENSE. — 1. The contents of any wire communication or evidence derived therefrom shall not be received in evidence or otherwise

disclosed in any civil or administrative proceeding, except in civil actions brought pursuant to this section.

2. Any person whose wire communication is intercepted, disclosed, or used in violation of sections 542.400 to 542.424 shall:

(1) Have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications; and

(2) Be entitled to recover from any such person:

(a) Actual damages, but not less than liquidated damages computed at the rate of one hundred dollars a day for each day of violation or ten thousand dollars whichever is greater;

(b) Punitive damages on a showing of a willful or intentional violation of sections 542.400 to 542.424; and

(c) A reasonable attorney's fee and other litigation costs reasonably incurred.

3. A good faith reliance on a court order or on the provisions of section 542.408 shall constitute a prima facie defense to any civil or criminal action brought under sections 542.400 to 542.424.

4. Nothing contained in this section shall limit any cause of action available prior to August 28, 1989.]

[542.420. EVIDENCE OBTAINED IN VIOLATION OF LAW MAY NOT BE USED. — Whenever any wire communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or a political subdivision thereof if the disclosure of that information would be in violation of sections 542.400 to 542.424.]

[542.422. INJUNCTIONS OF FELONY VIOLATIONS OF SECTIONS 542.400 TO 542.424, PROCEDURE. — Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of sections 542.400 to 542.424, the attorney general may initiate a civil action in a circuit court to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the state or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the rules of civil procedure except that, if an indictment has been returned against the respondent, discovery is governed by the rules of criminal procedure.]

Approved July 1, 2002

SB 714 [HCS SB 714]

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 to temporarily license certain health care practitioners during a state public health emergency.

AN ACT to repeal section 190.500, RSMo, relating to the declaration of a state public health emergency, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
 190.500. Temporary license — qualified health care professions — declared emergency.

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

SECTION A. ENACTING CLAUSE. — Section 190.500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 190.500, to read as follows:

190.500. TEMPORARY LICENSE — QUALIFIED HEALTH CARE PROFESSIONS — DECLARED EMERGENCY. — **1.** Notwithstanding any other provision of law to the contrary, a temporary license may be issued for no more than a twelve-month period by the appropriate licensing board to any otherwise qualified health care professional licensed **and in good standing** in another state and who meets such other requirements as the licensing board may prescribe by rule and regulation, if the health care professional:

(1) Is acting pursuant to federal military orders under Title X for active duty personnel or Title XXXII for [military reservists] **national guard members**; and

(2) Is enrolled in an accredited training program for trauma treatment and disaster response in a hospital in this state; **or**

(3) If the health care professional is acting pursuant to the governor's declaration of an emergency as defined in section 44.010, RSMo, such temporary licensure shall be issued pursuant to this subdivision for a two-week period and, upon license verification, may be reissued every two weeks thereafter.

2. Licensure information and confirmation of health care professionals acting pursuant to this section may be obtained by any available means, including electronic mail.

3. For purposes of this section, the term "health care professional" shall have the same meaning as such term is defined in section 383.130, RSMo.

Approved July 2, 2002

SB 718 [HCS SB 718]

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

Mandates weekly Pledge of Allegiance for school children.

AN ACT to repeal section 171.021, RSMo, and to enact in lieu thereof one new section relating to reciting the Pledge of Allegiance in public schools.

SECTION

- A. Enacting clause.
 171.021. Schools receiving public moneys to display United States flag — requirement to recite Pledge of Allegiance once a week.

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

SECTION A. ENACTING CLAUSE. — Section 171.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 171.021, to read as follows:

171.021. SCHOOLS RECEIVING PUBLIC MONEYS TO DISPLAY UNITED STATES FLAG — REQUIREMENT TO RECITE PLEDGE OF ALLEGIANCE ONCE A WEEK. — **1.** Every school in this state which is supported in whole or in part by public moneys, during the hours while school

is in session, shall display in some prominent place either upon the outside of the school building or upon a pole erected in the school yard the flag of the United States of America.

2. Every school in this state which is supported in whole or in part by public moneys shall ensure that the Pledge of Allegiance to the flag of the United States of America is recited in at least one scheduled class of every pupil enrolled in that school no less often than once per week. No student shall be required to recite the Pledge of Allegiance.

Approved July 3, 2002

SB 720 [SB 720]

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

Limits the bond amount for deputies and assistants appointed by collectors and treasurer ex officio collectors.

AN ACT to repeal sections 52.300 and 54.330, RSMo, relating to bonds for deputies for county collectors and treasurer ex officio collectors, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.

52.300. Deputies and assistants — appointment — powers — collector responsible for — bond requirements.

54.330. Bonds of ex officio collectors — bond requirements.

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

SECTION A. ENACTING CLAUSE. — Sections 52.300 and 54.330, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 52.300 and 54.330, to read as follows:

52.300. DEPUTIES AND ASSISTANTS — APPOINTMENT — POWERS — COLLECTOR RESPONSIBLE FOR — BOND REQUIREMENTS. — Collectors may appoint deputies and assistants, by an instrument in writing, duly signed, and may also revoke any such appointment at their pleasure[, and may require bonds or other securities from such deputies to secure themselves; and]. Each such deputy **or assistant** shall have like authority, in every respect, to collect the taxes levied or assessed within the portion of the county, town, district or city assigned to [him] **such deputy or assistant**, which, by law, is vested in the collector [himself]; but each collector shall, in every respect, be responsible to the state, county, towns, cities, districts and individuals, companies, corporations, as the case may be, for all moneys collected, and for every act done by any [of his deputies whilst acting as such] **deputy or assistant when acting as a deputy or assistant**, and for any omission of duty of such deputy **or assistant**. **Before entering upon the duties for which they are employed, deputies and assistants shall give bond and security to the satisfaction of the collector. The bond for each individual deputy or assistant shall not exceed one-half of the amount of the maximum bond required for any collector pursuant to sections 52.020 to 52.100. The official bond required pursuant to this section shall be a surety bond with a surety company authorized to do business in this state. The premium of the bond shall be paid by the county or city being protected.** Any bond or security taken from a deputy **or assistant** by a collector, pursuant to this chapter, shall be available to such collector[, his] **or the collector's** representatives and sureties, to indemnify them for any loss or damage accruing from any act of such deputy.

54.330. BONDS OF EX OFFICIO COLLECTORS — BOND REQUIREMENTS. — 1. County treasurers, as ex officio county collectors of counties under township organization, shall be required to give bonds as other county collectors under the general revenue law.

2. **Before entering upon the duties for which they are employed, deputies and assistants employed in the office of any treasurer ex officio collector shall give bond and security to the satisfaction of the treasurer ex officio collector. The bond for each individual deputy or assistant shall not exceed one-half of the amount of the maximum bond required for any treasurer ex officio collector. The official bond required pursuant to this section shall be a surety bond with a surety company authorized to do business in this state. The premium of the bond shall be paid by the county or city being protected.**

Approved June 21, 2002

SB 722 [HS HCS SCS SB 722]

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

Allows individuals to obtain a temporary administrator certificate.

AN ACT to repeal sections 168.071 and 168.081, RSMo, and to enact in lieu thereof three new sections relating to certificates of license to teach, with an expiration date for a certain section.

SECTION

- A. Enacting clause.
 168.071. Revocation, suspension or refusal of certificate or license, grounds — procedure — appeal.
 168.081. Teaching or acting as school administrator without certificate prohibited.
 168.083. Temporary administrator certificate granted, when — mentoring program developed — expiration date.

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

SECTION A. ENACTING CLAUSE. — Sections 168.071 and 168.081, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 168.071, 168.081, and 168.083, to read as follows:

168.071. REVOCATION, SUSPENSION OR REFUSAL OF CERTIFICATE OR LICENSE, GROUNDS—PROCEDURE—APPEAL. — 1. [The Missouri state board of education may refuse to issue or renew, or may suspend or revoke a certificate of license to teach upon satisfactory proof of incompetency, cruelty, immorality, drunkenness, neglect of duty, or the annulling of a written contract for reasons other than election to the general assembly, with the local board of education without the consent of the majority of the members of the board which is a party to the contract. Charges may be filed by any school district or, at the request of the school district, by the office of the attorney general if the school district has been identified as financially stressed pursuant to section 161.520, RSMo. If the underlying conduct or actions which are the basis for charges filed under this subsection are also the subject of a pending criminal charge against the person holding such certificate, and that person requests in writing a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States, no hearing shall be held until after final disposition of the criminal charge.

2. The state board of education may refuse to issue or renew, or may, upon hearing, suspend or revoke a certificate of license to teach if a certificate holder or applicant for a

certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state or any other state or of the United States, or any other country, whether or not the sentence is imposed.

3. The certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree; statutory sodomy in the second degree; child molestation in the first degree; child molestation in the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct in the first degree; or sexual abuse;

(3) Any of the following offenses against the family and related offenses: incest; abandonment of child in the first degree; abandonment of child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual performance; promoting sexual performance by a child; or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree; promoting child pornography in the first degree; promoting obscenity in the second degree when the penalty is enhanced to a class D felony; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic materials to minors; coercing acceptance of obscene material; or sale or rental to persons under seventeen.

4. The certificate holder whose certificate was revoked pursuant to subsection 3 of this section may appeal such revocation to the state board of education. The certificate holder whose certificate has been revoked pursuant to subsection 3 of this section must notify the commissioner of education of the intent to appeal by advising the commissioner within thirty days of the certificate holder's plea of guilty or finding of guilt of the intent to appeal. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal said revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses. In those cases where the plea of guilty to or finding of guilt of any of the offenses listed in subsection 3 of this section involve a minor child, testimony from the minor child involved in the complaint shall not be required. The hearing officer shall accept into the record the transcript of any testimony of a child involved in such offense if such testimony was admitted in any court hearing. Subsection 6 of this section shall apply to any final decision made by the state board of education pursuant to this subsection.

5. The charges filed with the state board of education under this section shall be in writing and plainly and fully specify the basis for the charges. The charges shall be signed by the chief administrative officer of the district or by the president of the board of education when so authorized by a majority of the board. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard, together with witnesses.

6. The certificate holder may appeal to the circuit court at any time within thirty days after receipt of the final decision of the state board of education. The appeal shall be heard with a jury at the option of either the certificate holder or the party filing the charges, and shall be tried de novo, affirming or denying the action of the state board of education. Costs shall be taxed against the appellant if the judgment of the state board of education is affirmed. In those cases where the charges allege immorality by the certificate holder involving a minor child, such case shall

be heard by the court without a jury and any testimony from the minor child involved in the complaint shall be taken directly from the hearing record taken on behalf of the state board of education.

7. The issuance of a certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.] **The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:**

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this section; or

(5) If charges are filed by the local board of education, based upon the annulling of a written contract with the local board of education, for reasons other than election to the general assembly, without the consent of the majority of the members of the board that is a party to the contract.

2. A public school district may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, including annulment of a written contract. Charges shall be in writing, specify the basis for the charges, and be signed by the chief administrative officer of the district, or by the president of the board of education as authorized by a majority of the board of education. The board of education may also petition the office of the attorney general to file charges on behalf of the school district for any cause other than annulment of contract, with acceptance of the petition at the discretion of the attorney general.

3. The department of elementary and secondary education may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be in writing, specify the basis for the charges, and be signed by legal counsel representing the department of elementary and secondary education.

4. If the underlying conduct or actions which are the basis for charges filed pursuant to this section are also the subject of a pending criminal charge against the person holding such certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel under the fifth amendment of the Constitution of the United States. Based upon such a request, no hearing shall be held until after a trial has been completed on this criminal charge.

5. The certificate holder shall be given not less than thirty days' notice of any hearing held pursuant to this section.

6. Other provisions of this section notwithstanding, the certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree; statutory sodomy in the second degree; child molestation in the first degree; child molestation in the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct in the first degree; or sexual abuse;

(3) Any of the following offenses against the family and related offenses: incest; abandonment of child in the first degree; abandonment of child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual performance; promoting sexual performance by a child; or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree; promoting obscenity in the second degree when the penalty is enhanced to a class D felony; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography in the first degree; possession of child pornography in the second degree; furnishing child pornography to a minor; furnishing pornographic materials to minors; or coercing acceptance of obscene material.

7. The certificate holder whose certificate was revoked pursuant to subsection 6 of this section may appeal such revocation to the state board of education. Notice of this appeal must be received by the commissioner of education within ninety days of notice of revocation pursuant to this subsection. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

8. In the case of any certificate holder who has surrendered or failed to renew his or her certificate of license to teach, the state board of education may refuse to issue or renew, or may suspend or revoke, such certificate for any of the reasons contained in this section.

9. In those cases where the charges filed pursuant to this section are based upon an allegation of misconduct involving a minor child, the hearing officer may accept into the record the sworn testimony of the minor child relating to the misconduct received in any court or administrative hearing.

10. Hearings, appeals or other matters involving certificate holders, licensees or applicants pursuant to this section may be informally resolved by consent agreement or agreed settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated by the state board of education.

11. The final decision of the state board of education is subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

12. A certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.

168.081. TEACHING OR ACTING AS SCHOOL ADMINISTRATOR WITHOUT CERTIFICATE PROHIBITED. — After September 1, 1988, no person without a valid Missouri certificate shall:

(1) Engage in the practice of teaching or the performance of education duties in grades kindergarten through twelve in any public school in the state;

(2) Act as a school administrator in any public school district, **unless such person obtains a temporary administrator certificate pursuant to section 168.083.**

168.083. TEMPORARY ADMINISTRATOR CERTIFICATE GRANTED, WHEN — MENTORING PROGRAM DEVELOPED — EXPIRATION DATE. — 1. Any qualified applicant may be granted a temporary administrator certificate upon joint application with a Missouri public school district or accredited nonpublic school which establishes a mentoring program pursuant to subsection 2 of this section. The temporary administrator certificate is limited to the employing Missouri public school district or accredited nonpublic school. An applicant for a temporary administrator certificate may apply for only one area of certification at a time.

2. The employing Missouri public school district or accredited nonpublic school shall develop a mentoring program to provide adequate support to the holder of the temporary administrator certificate to ensure proper transition into the administrative environment.

3. The temporary administrator certificate of license to teach is valid for up to one school year. It may be renewed annually for up to four subsequent years by joint application from the certificate holder and employing Missouri public school district or accredited nonpublic school upon demonstration that the applicant is making continuous, measurable progress toward obtaining a full administrator certificate of license to teach. The state board of education shall establish specific standards as to what constitutes making measurable progress toward obtaining a full administrator certificate; provided that a full administrator certificate at that grade level shall be required after the fifth year of a temporary administrator certificate in order to retain administrator certification.

4. Applications for a Missouri temporary administrator certificate shall be submitted on forms provided and approved by the state board of education.

5. The state board of education shall promulgate rules and regulations for the issuance and renewal of temporary administrator certificates. 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.

6. As used in this section, the term "qualified applicant" shall mean a person who:

- (1) Holds a valid certificate of license to teach in Missouri;
- (2) Has a master's degree or is currently enrolled in a master's degree program; and
- (3) Has at least five years of teaching experience in a public school, in an accredited nonpublic school, or in a combination of such schools at the grade level for which the temporary administrator certificate is sought.

7. The provisions of this section shall expire August 28, 2012.

Approved July 2, 2002

SB 726 [SB 726]

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

Moves Emergency Services Day to September 11th.

AN ACT to repeal section 9.130, RSMo, relating to Emergency Services Day, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
- 9.130. Emergency Services Day observed, when.

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

SECTION A. ENACTING CLAUSE. — Section 9.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 9.130, to read as follows:

9.130. EMERGENCY SERVICES DAY OBSERVED, WHEN. — The [twenty-eighth day of November] **eleventh day of September** of each year shall be known as "Emergency Services Day" and shall be set apart as a day of acknowledging, with special gratitude and profound respect, all public safety personnel, including police, firefighters, ambulance personnel, emergency dispatchers, and corrections officers. The people of this state and all of its political subdivisions are hereby requested to:

- (1) Devote some part of such day to recognizing their respective public safety personnel;
- (2) Make an effort to urge the citizens of their communities to cooperate with police agencies in the reporting of crimes; and
- (3) Cooperate with fire agencies by checking their smoke detectors to assure that such detectors are functional.

Approved July 1, 2002

SB 727 [SCS SB 727 & 703]

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 law regarding tinted windows.

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, decalomania, 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, 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.

Approved February 14, 2002

SB 729 [SCS SB 729]

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

Mortgages may be insured at time loan is made if secured by first lien.

AN ACT to repeal section 443.415, RSMo, relating to mortgage insurance, and to enact in lieu thereof one new section relating to the same subject.

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 June 18, 2002

SB 737 [HCS SCS SB 737]

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

Allows 4-H members and parents of 4-H members to obtain special license plates.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to license plates.

SECTION

A. Enacting clause.

301.481. Missouri 4-H special license plate, application, fee.

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 301.481, to read as follows:

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 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 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.

Approved July 3, 2002

SB 742 [SB 742]

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

Makes technical correction in law on trusts and estates.

AN ACT to repeal section 469.411, RSMo, relating to trusts and estates, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
 362.011. Trust business not engaged in, when — prohibition on use of words "trust company", when.
 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 two new sections enacted in lieu thereof, to be known as sections 362.011 and 469.411, to read as follows:

362.011. TRUST BUSINESS NOT ENGAGED IN, WHEN — PROHIBITION ON USE OF WORDS "TRUST COMPANY", WHEN. — 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.

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 June 13, 2002

SB 745 [SCS SB 745]

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

Establishes special license plate for combat veterans of U.S. Marine Corps and U.S. Navy.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to specialized license plates.

SECTION

A. Enacting clause.
301.3085. United States Marine Corps, active duty combat, special license plate authorized.

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 301.3085, to read as follows:

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.

Approved July 3, 2002

SB 758 [CCS HCS SB 758]

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

Clarifies registration requirements for offenders.

AN ACT to repeal sections 43.540, 547.170, 589.400 and 589.410, RSMo, and to enact in lieu thereof four new sections relating to registration of offenders.

SECTION

- A. Enacting clause.
- 43.540. Criminal conviction record checks, patrol to conduct, when, procedure, information to be released, who may request — use limited to staff and volunteer applicants, confidentiality, violation, penalty.
- 547.170. Prisoner, when let to bail.
- 589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration.
- 589.410. Highway patrol to be notified, information to be made a part of MULES.

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

SECTION A. ENACTING CLAUSE. — Sections 43.540, 547.170, 589.400 and 589.410, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 43.540, 547.170, 589.400 and 589.410, to read as follows:

43.540. CRIMINAL CONVICTION RECORD CHECKS, PATROL TO CONDUCT, WHEN, PROCEDURE, INFORMATION TO BE RELEASED, WHO MAY REQUEST—USE LIMITED TO STAFF AND VOLUNTEER APPLICANTS, CONFIDENTIALITY, VIOLATION, PENALTY. — 1. As used in this section, the following terms mean:

(1) "Criminal record review", a request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor **and any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo;**

(2) "Patient or resident", a person who by reason of aging, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(3) "Patrol", the Missouri state highway patrol;

(4) "Provider", any licensed day care home, licensed day care center, licensed child placing agency, licensed residential care facility for children, licensed group home, licensed foster family group home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo;

(5) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. Upon receipt of a written request from a private investigatory agency, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the **address and offense for which the offender registered pursuant to sections 589.400 to 589.425, RSMo, and the nature of the offense, and the date, place and court for any other offenses contained in the criminal record review.** Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo, sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.

547.170. PRISONER, WHEN LET TO BAIL. — In all cases where an appeal or writ of error is prosecuted from a judgment in a criminal cause, except where the defendant is under sentence of death or imprisonment in the penitentiary for life, or a sentence of imprisonment for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, **566.032, 566.040, 566.060, 566.062, 566.070, 566.100,** RSMo, any court or officer authorized to order a stay of proceedings under the preceding provisions may allow a writ

of habeas corpus, to bring up the defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties, to be approved by such court or judge.

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION. — 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit, [an] **a felony offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a minor;** or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit one or more of the following offenses: kidnapping, **pursuant to section 565.110, RSMo; felonious restraint;** promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; incest; abuse of a child [used], **pursuant to section 568.060, RSMo; use of a child in a sexual performance; or promoting sexual performance by a child;** and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who is a resident of this state [and] **who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state or under federal jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection** or has been or is required to register in another state or has been or is required to register under federal or military law; or

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. Part-time in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of [coming into any county] **conviction, release from incarceration, or placement upon probation,** register with the chief law enforcement official of the county in which such person resides **unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county within ten days of the effective date of this section.** The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town or village law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town or village law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.410. HIGHWAY PATROL TO BE NOTIFIED, INFORMATION TO BE MADE A PART OF MULES. — The chief law enforcement official shall forward the completed offender registration form to the Missouri state highway patrol within three days. The patrol shall enter the

information into the Missouri uniform law enforcement system (MULES) where it is available to members of the criminal justice system, **and other entities as provided by law**, upon inquiry.

Approved July 10, 2002

SB 776 [HCS SCS SB 776]

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

Missouri Higher Education Savings Program personal information shall be confidential.

AN ACT to repeal section 166.415, RSMo, and to enact in lieu thereof two new sections relating to the Missouri higher education savings program.

SECTION

A. Enacting clause.

166.415. Missouri higher education savings program, created, board, members, proxies, powers and duties, investments.

166.456. Confidentiality of information.

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

SECTION A. ENACTING CLAUSE. — Section 166.415, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 166.415 and 166.456, to read as follows:

166.415. MISSOURI HIGHER EDUCATION SAVINGS PROGRAM, CREATED, BOARD, MEMBERS, PROXIES, POWERS AND DUTIES, INVESTMENTS. — 1. There is hereby created the "Missouri Higher Education Savings Program". The program shall be administered by the Missouri higher education savings program board which shall consist of the Missouri state treasurer who shall serve as chairman, the commissioner of the department of higher education, the commissioner of the office of administration, the director of the department of economic development and two persons having demonstrable experience and knowledge in the areas of finance or the investment and management of public funds, one of whom is selected by the president pro tem of the senate and one of whom is selected by the speaker of the house of representatives. The two appointed members shall be appointed to serve for terms of four years from the date of appointment, or until their successors shall have been appointed and shall have qualified. The members of the board shall be subject to the conflict of interest provisions of section 105.452, RSMo. Any member who violates the conflict of interest provisions shall be removed from the board. In order to establish and administer the savings program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the Missouri higher education savings program and, notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the savings programs and services consistent with the purposes and objectives of sections 166.400 to 166.455;

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement sections 166.400 to 166.455, to permit the savings program to qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code and to ensure the savings program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution for

investment services, and their families, including special programs and materials to inform families with young children regarding methods for financing education and training beyond high school;

(4) Enter into agreements with any financial institution, the state or any federal or other agency or entity as required for the operation of the savings program pursuant to sections 166.400 to 166.455;

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the savings program;

(7) Invest the funds received from participants in appropriate investment instruments to achieve long-term total return through a combination of capital appreciation and current income;

(8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 166.400 to 166.455 and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the savings program;

(11) Effectuate and carry out all the powers granted by sections 166.400 to 166.455, and have all other powers necessary to carry out and effectuate the purposes, objectives and provisions of sections 166.400 to 166.455 pertaining to the savings program; and

(12) Procure insurance, guarantees or other protections against any loss in connection with the assets or activities of the savings program.

2. Any member of the board may designate a proxy for that member who will enjoy the full voting privileges of that member for the one meeting so specified by that member. No more than three proxies shall be considered members of the board for the purpose of establishing a quorum.

3. Four members of the board shall constitute a quorum. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. No action shall be taken by the board except upon the affirmative vote of a majority of the members present.

[3.] **4.** The board shall meet within the state of Missouri at the time set at a previously scheduled meeting or by the request of any four members of the board. Notice of the meeting shall be delivered to all other trustees in person or by depositing notice in a United States post office in a properly stamped and addressed envelope not less than six days prior to the date fixed for the meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

[4.] **5.** The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688, RSMo. The board may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in

good faith and with that degree of diligence, care and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

[5.] 6. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has a substantial interest, nor shall any member of the board profit directly or indirectly from any such investment.

[6.] 7. No trustee or employee of the savings program shall receive any gain or profit from any funds or transaction of the savings program. Any trustee, employee or agent of the savings program accepting any gratuity or compensation for the purpose of influencing such trustee's, employee's or agent's action with respect to the investment or management of the funds of the savings program shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery.

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 166.455 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

SB 786 [HCS SB 786]

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

Authorizes certain design and build contracts when the contractor is not licensed in Missouri.

AN ACT to amend chapter 327, RSMo, by adding thereto one new section relating to the licensing of architects and engineers.

SECTION

A. Enacting clause.

327.465. Certificate of registration or authority not required, when — definitions.

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

SECTION A. ENACTING CLAUSE. — Chapter 327, RSMo, is amended by adding thereto one new section, to be known as section 327.465, to read as follows:

327.465. CERTIFICATE OF REGISTRATION OR AUTHORITY NOT REQUIRED, WHEN — DEFINITIONS.—1. As used in this section, the following terms shall mean:

(1) "Design-build", a project for which the design and construction services are furnished under one contract;

(2) "Design-build contract", a contract between the owner, owner's agent, tenant, or other party and a design-build contractor to furnish the architecture, engineering, and related design services, and the labor, materials, and other construction services required for a specific public or private construction project;

(3) "Design-build contractor", any individual, partnership, joint venture, corporation, or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts.

2. Any design-build contractor that enters into a design-build contract for public or private construction shall be exempt from the requirement that such person or entity hold a certificate of registration or such corporation hold a certificate of authority if the architectural, engineering, or land surveying services to be performed under the contract are performed through subcontracts with:

- (1) Persons who hold a certificate of registration for the appropriate profession; or
- (2) Corporations that hold current certificates of authority from the board for the appropriate profession.

3. Nothing in this chapter shall prohibit the enforcement of a design-build contract by a design-build contractor who only furnishes, but does not directly or through its employees perform the architectural, engineering, or surveying required by the contract and who does not hold itself out as able to perform such services.

Approved July 10, 2002

SB 795 [CCS#2 HCS SB 795]

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 Communications Systems Fund for use of counties.

AN ACT to amend chapter 650, RSMo, by adding thereto nine new sections relating to emergency communication systems.

SECTION

- A. Enacting clause.
- 650.277. Fees for inspection, permits, licenses, and certificates, amount determined by board — Boiler and Pressure Vessels Safety Fund established.
- 650.390. Definitions.
- 650.393. Commission established, membership, terms.
- 650.396. Tax authorized, when, amount.
- 650.399. Tax levied, vote required, ballot language.
- 650.402. Emergency Communications System Fund established, use of funds, administration.
- 650.405. Powers and responsibilities of board.
- 650.408. Operation and maintenance of system funding—issuance of bonds authorized, submission to the voters, ballot language, use of money.
- 650.411. Use of moneys derived from the sale of bonds.

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

SECTION A. ENACTING CLAUSE. — Chapter 650, RSMo, is amended by adding thereto nine new sections, to be known as sections 650.277, 650.390, 650.393, 650.396, 650.399, 650.402, 650.405, 650.408 and 650.411, to read as follows:

650.277. FEES FOR INSPECTION, PERMITS, LICENSES, AND CERTIFICATES, AMOUNT DETERMINED BY BOARD — BOILER AND PRESSURE VESSELS SAFETY FUND ESTABLISHED. — 1. As otherwise provided by sections 650.200 to 650.295, the boiler and pressure vessel board shall set fees for inspection, permits, licenses, and certificates required by sections 650.200 to 650.295. Fees shall be determined by the board to provide sufficient funds for the operation of the board and shall be set by rule or regulation promulgated in accordance with the provisions of section 536.021, RSMo. The board may alter the fee schedule once every two years. Any funds collected pursuant to sections 650.200 to

650.295 shall be deposited in the "Boiler and Pressure Vessels Safety Fund", which is hereby created. Beginning July 1, 2003, moneys in the fund shall be appropriated from the fund for the expenses of the board. A municipality or other political subdivision enforcing the provisions of sections 650.200 to 650.295 and which performs the inspections, permitting, licensing, and certification as required, the fee for such inspection shall be paid directly to the municipality or political subdivision and shall not be preempted by sections 650.200 to 650.295, except that any fee established by the board for the issuance of appropriate state certificates shall be paid to the board.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section or under the authority of sections 650.210 to 650.275 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.

650.390. DEFINITIONS. — As used in sections 650.390 to 650.411, the following words and terms mean:

(1) "Board of commissioners", a board appointed by the chief executive officer of the governing body within a service area for the purpose of administering a county emergency communications system. No board of commissioners established pursuant to sections 650.390 to 650.411 shall have jurisdiction over local emergency or police dispatching agencies;

(2) "County", any charter county with a population of more than nine hundred thousand inhabitants;

(3) "Emergency communications system", a wireless radio communication network, including infrastructure hardware and software, providing communications links that permit participating governmental or public safety entities to communicate within the area served by such system which is coterminous with the geographic boundaries of the county in which the emergency communications system is situated;

(4) "Governing body", the legislative body of any county with a charter form of government and a population of more than nine hundred thousand inhabitants.

650.393. COMMISSION ESTABLISHED, MEMBERSHIP, TERMS. — 1. The governing body of a county may establish an emergency communications system commission within the geographical boundaries of such county. Each such commission shall be composed of seven commissioners appointed by the chief executive officer of the county in which the commission is established.

2. The commission shall include a chief of police of a municipality located within the county, the chief of the police or the sheriff of the county, a chief of a municipal fire department located within the county, a chief of a fire protection district located within the county, and three at-large commissioners, who shall be residents of the county, all subject to the confirmation of the governing body of the county. Where applicable, the member who is a municipal chief of police shall be chosen from those persons nominated by a local police chiefs association. The members who are chiefs of either a municipal fire department or a fire protection district shall be chosen from those persons nominated by a local fire chiefs association. One at-large commissioner shall be chosen from those persons nominated by a local municipal league or organization. At least two of the at-large commissioners shall be persons who are not employed by a fire department or district, a police or sheriff's department, or any emergency medical system, or who are not

elected or appointed officials of a political subdivision of the state or are not employed by the state of Missouri.

3. The terms of office of the commissioner who is a chief of police or sheriff of the county shall be coterminous with such person's term of office as chief of police or sheriff. At the first meeting of the commission, the other commissioners shall choose the length of their terms, with two commissioners serving for two years, three commissioners serving for three years and one commissioner serving for four years. All succeeding commissioners shall serve for five years. Terms shall end on December thirty-first of the respective year. No commissioner shall serve for more than two consecutive full terms. A commissioner who is not an at-large commissioner shall remain in office only so long as he or she retains office with the department or district that such commissioner served at the time such person was appointed to the board of commissioners. Vacancies on the board of commissioners shall be filled by persons appointed by the chief executive officer of the county in the same manner by which the commissioner whose office is vacant was first appointed.

650.396. TAX AUTHORIZED, WHEN, AMOUNT. — A county in which an emergency communications system commission has been established may, by a majority vote of the qualified voters voting thereon, levy and collect a tax on the taxable real property in the district, not to exceed six cents per one hundred dollars of assessed valuation to accomplish any of the following purposes:

(1) The provision of necessary funds to establish, operate and maintain an emergency communications system to serve the county in which the commission is located; and

(2) The provision of funds to supplement existing funds for the operation and maintenance of an existing emergency communications system in the county in which the commission is located.

650.399. TAX LEVIED, VOTE REQUIRED, BALLOT LANGUAGE. — 1. The board of commissioners may, by a majority vote of its members, request that the governing body of the county submit to the qualified voters of such county at a general, primary or special election either of the questions contained in subsection 2 of this section. The governing body may approve or deny such request. The governing body may also vote to submit such question without a request of the board of commissioners. The county election official shall give legal notice of the election pursuant to chapter 115, RSMo.

2. The questions shall be put in substantially the following form:

(1) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a tax of (insert exact amount, not to exceed six cents) per each one hundred dollars assessed valuation therefor, to be paid into the fund for that purpose?"

YES NO; or

(2) "Shall (name of county) establish an emergency communications system fund to establish (and/or) maintain an emergency communications system, and for which the county shall levy a sales tax of (insert exact amount, not to exceed one-tenth of one percent), to be paid into the fund for that purpose?"

YES NO

3. The election shall be conducted and vote canvassed in the same manner as other county elections. If the majority of the qualified voters voting thereon vote in favor of such tax, then the county shall levy such tax in the specified amount, beginning in the tax year immediately following its approval. The tax so levied shall be collected along with other county taxes in the manner provided by law. If the majority of the qualified voters voting thereon vote against such tax, then such tax shall not be imposed unless such tax is resubmitted to the voters and a majority of the qualified voters voting thereon approve such tax.

650.402. EMERGENCY COMMUNICATIONS SYSTEM FUND ESTABLISHED, USE OF FUNDS, ADMINISTRATION. — All funds collected from any tax approved pursuant to section 650.399 shall be deposited in a special county fund, to be designated the "Emergency Communications System Fund". The fund shall be held and managed in the same manner as all other funds of such county. The fund shall be administered by the board of commissioners to accomplish the purposes set out in sections 650.396, 650.405 and 650.411, and shall be used for no other purpose.

650.405. POWERS AND RESPONSIBILITIES OF BOARD. — The board of commissioners shall have the following powers and responsibilities:

(1) To supervise and administer, within the acquisition and purchasing procedures of the county, the building, acquisitions by purchase or otherwise, construction and operation of an emergency communications system for the county in which the commission is located;

(2) To administratively control and manage the emergency communications system;

(3) To negotiate and recommend to the governing body that the county contract with such companies or other business or governmental entities, which in the opinion of the board of commissioners are necessary to provide equipment, material and professional services to establish, construct and maintain an emergency communications system and conduct the business of the commission;

(4) To promulgate an annual report of the financial condition and operation of the commission and the emergency communications system;

(5) To recommend to the governing body that the county purchase or acquire by gift such real estate and equipment and materials necessary to accomplish the purposes of the commission and the emergency communications system; and

(6) To adopt such bylaws, rules and regulations as in the opinion of the board of commissioners shall best serve the purpose of the commission.

650.408. OPERATION AND MAINTENANCE OF SYSTEM FUNDING —ISSUANCE OF BONDS AUTHORIZED, SUBMISSION TO THE VOTERS, BALLOT LANGUAGE, USE OF MONEY. — 1. The funds necessary for payment of any obligation of the county in connection with the establishment, operation and maintenance of the emergency communications system may be paid by the county out of the fund established pursuant to section 650.402, or from bonds issued pursuant to this section.

2. For the purpose of supporting the operation and other purposes of the commission and the emergency communications system, the county may issue bonds for and on behalf of the county, payable out of funds derived from the sales tax authorized in sections 650.396 and 650.399 or from taxation of all taxable real property in the county, up to an amount not exceeding six percent of the assessed valuation of such property, with such evaluation to be ascertained by the assessment immediately prior to the most recent assessment for state and county purposes, or from revenue generated from any other tax or fee authorized and approved by the voters pursuant to section 650.399. Such bonds shall be issued in denominations of one hundred dollars, or some multiple thereof, and the provisions of section 108.170, RSMo, to the contrary notwithstanding, such bonds may bear interest at a rate determined by the emergency communications system commissioners, payable semiannually, to become payable no later than twenty years after the date of the bonds.

3. Whenever the board of commissioners of any such emergency communications district proposes to issue bonds pursuant to subdivision (3) of subsection 2 of this section, they shall submit the question to the voters in the district pursuant to this section. The notice for any such election shall, in addition to the requirements of chapter 115, RSMo, state the amount of bonds to be issued.

4. The question shall be submitted in substantially the following form:

"Shall County issue bonds in the amount of dollars, the purpose of which are to support the construction, repair and maintenance of the Emergency Communications System?"

YES NO

5. The result of the election on the question shall be entered upon the records of the county. If it shall appear that four-sevenths of the voters voting on the question shall have voted in favor of the issue of the bonds, the commissioners shall order and direct the execution of the bonds for and on behalf of such county and the commission. If the general law of the state is such that an amount other than a four-sevenths majority is required on ballot measures of such type, the amount set by the general law of the state shall control.

6. The county shall not sell such bonds for less than ninety-five percent of the par value thereof, and the proceeds shall be paid over to the county treasurer, and disbursed on warrants drawn by the president or vice president of the board of commissioners and attested by the secretary. The proceeds of the sale of such bonds shall be used for the purpose only of paying the cost of holding such election, and constructing, repairing and maintaining the emergency communications system and its appurtenances.

7. Such bonds shall be payable and collectible only out of moneys derived from tax revenues authorized by section 650.399, from the sale of such bonds or from interest that may accrue on funds so derived while on deposit with any county depository. The county treasurer shall hold in reserve, for payment of interest on such bonds, a sufficient amount of the money so derived that may come into his or her hands in excess of the amount then necessary to pay all bonds and interest then past due, to pay all interest that will become payable before the next installment of such special tax becomes payable, and three percent of the principal amount of the bonds not then due. The county treasurer shall, whenever any of the bonds or interest thereon become due, apply such money as may be in his or her custody and applicable thereto, or that may thereafter come into his or her custody and be applicable thereto, to payment of such bonds and interest as may be due and unpaid.

8. All money derived from the tax authorized pursuant to section 650.399 shall be used in paying the bonds and the interest thereon, except that the money that may be collected pursuant to such tax in excess of the amount necessary to pay all bonds then past due and such bonds and interest as will become payable before another assessment of such tax becomes payable may, less an amount equal to three percent of the principal amount of the bonds not then due, be used for the purposes authorized in section 650.411.

9. The county treasurer shall, as such bonds are sold, deliver them to the purchaser upon being ordered to do so by the commissioners. The county treasurer shall cancel bonds as such bonds are paid, and shall deliver them to the clerk of the county.

650.411. USE OF MONEYS DERIVED FROM THE SALE OF BONDS. — All money derived from the sale of bonds pursuant to section 650.408 except such portion as is required to be reserved pursuant to subsections 7 and 8 of section 650.408, all money collected on any tax authorized according to section 650.399 and all interest that may accrue on moneys so derived while deposited with any county depository and not required to be used in paying such bonds or interest thereon, shall be used, and warrants drawn on the treasurer therefor, to pay:

- (1) The cost and expenses incurred by the county maintaining any real or personal property used in the operation of the emergency communications system; and
- (2) Such working, administrative and incidental expenses, not otherwise provided by law, as may be incurred in operating such emergency communications system.

Approved July 12, 2002

SB 798 [SB 798]

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

Allows two sets of specialized plates to be issued to U.S. Congressional members.

AN ACT to repeal section 301.453, RSMo, relating to congressional license plates, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
301.453. General assembly member, special license plates, application, form, fee — member of Congress, special license plates, application, form, fee — statewide elected official, special plates, application, form, fee.

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

SECTION A. ENACTING CLAUSE. — Section 301.453, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.453, to read as follows:

301.453. GENERAL ASSEMBLY MEMBER, SPECIAL LICENSE PLATES, APPLICATION, FORM, FEE — MEMBER OF CONGRESS, SPECIAL LICENSE PLATES, APPLICATION, FORM, FEE — STATEWIDE ELECTED OFFICIAL, SPECIAL PLATES, APPLICATION, FORM, FEE. — 1. Any member of the general assembly of the state of Missouri while holding office, upon application 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, may apply for special personalized license plates bearing the state seal in gold and black colors along with the words "Representative" or "Senator" in preference to the words "Show-Me State". The director of revenue shall annually set aside special personalized license plates bearing the letters and numbers S-1 to S-34 and S01 to S034, R-1 to R-163 and R01 to R0163 to be issued to a member of the general assembly of the state of Missouri while such member is holding that office, upon such member's written request. For the first set of special personalized license plates issued to a member of the general assembly, such plates shall bear the letter "S" and the number of the senator's district for a member of the state senate or the letter "R" and the number of the representative's district for a member of the house of representatives and for the second set of plates issued to a member of the general assembly, such plates shall bear the letter "S" and the number of the senator's district preceded by the numeral "0" for a member of the state senate or the letter "R" and the number of the representative's district preceded by the numeral "0" for a member of the house of representatives. Only two sets of such plates may be issued to any one member of the general assembly.

2. Any member of the United States Congress while he **or she** is holding that office, upon his **or her** written request and upon a payment of the additional fee required for personalized plates in section 301.144, may apply for special personalized license plates bearing the state seal in gold and black along with the words "Member of Congress" instead of the words "Show-Me State" and either the letters and numbers "[USS1] **USS-1, USS-01**" and "[USS2] **USS-2, USS-02**" for the senior and junior United States Senators from Missouri, respectively, or, in the case of members of the United States House of Representatives, bearing the letters "[USC" together with the number of the representative's district] **USC-1 to USC-9 and USC-01 to USC-09**". Only [one set] **two sets** of such plates may be issued to any one individual congressman.

3. The director shall annually set aside special personalized license plates bearing the state seal in gold and black and the numbers 1, 2, 3, 4, 5, and 6 along with the words "Governor", "Lieutenant Governor", "Secretary of State", "State Auditor", "State Treasurer" and "Attorney

General" in preference to the words "Show-Me State" to be issued to the governor, lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general, respectively, upon written request and upon payment of the fee required for personalized license plates in section 301.144, and other fees and documents as may be required by law. These plates shall be held by the appropriate public official only while such person remains in that office. Upon leaving that office the public official shall surrender the personalized license plates to the director, who shall make them available as provided in this subsection to the succeeding public official.

4. All special license plates issued under this section 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.

Approved July 3, 2002

SB 804 [SCS SB 804]

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

Authorizes Governor to convey twelve property interests held by the Department of Mental Health to Kansas City.

AN ACT to authorize the conveyance of certain property interests to the city of Kansas City.

SECTION

1. Conveyance of property managed by the department of mental health to the city of Kansas City.
2. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
3. Conveyance of property managed by the department of mental health to the city of Kansas City.
4. Conveyance of property managed by the department of mental health to the city of Kansas City for a public right-of-way.
5. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
6. Conveyance of property managed by the department of mental health to the city of Kansas City.
7. Conveyance of property managed by the department of mental health to the city of Kansas City for a storm drainage easement.
8. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
9. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
10. Conveyance of property managed by the department of mental health to the city of Kansas City for a public road right-of-way.
11. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
12. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
13. Temporary easement granted for property managed by the department of mental health to the city of Kansas City.
14. Consideration for conveyance of property.

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

SECTION 1. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract of land being a part of Lots 50-56 inclusive in HOME PARK, and a part of Lots 25 and 34 in COL. E. M. MCGEE'S SUBDIVISION,

and the vacated alley between said lots, subdivisions in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 371.01 feet; thence North 87°15'32" West along said centerline, a distance of 336.38 feet; thence North 02°44'28" East, a distance of 4.97 feet to a point on the south line of said Lot 25; thence North 02°48'45" East along a line parallel to the east line of said lot, a distance of 32.83 feet to the True Point of Beginning; thence North 02°48'45" East along a line parallel to the east line of said lot, a distance of 26.22 feet; thence South 87°58'15" East, a distance of 79.67 feet; thence South 00°10'25" East, a distance of 15.83 feet; thence South 88°10'02" East, a distance of 93.95 feet; thence North 02°46'13" East, a distance of 14.43 feet; thence South 87°11'15" East along a line parallel to the south line of said Lots 25 and 50, a distance of 175.41 feet; thence North 02°23'59" East along a line parallel to the east line of said Lots 51-55 inclusive, a distance of 96.04 feet; thence South 87°11'34" East, a distance of 5.00 feet; thence South 02°23'59" West along a line parallel to the east line of Lot 55-51 inclusive, a distance of 101.11 feet; thence South 46°44'38" West, a distance of 40.06 feet; thence North 85°09'48" West, a distance of 185.81 feet; thence North 87°11'32" West along a line parallel to the south line of said Lots 25 and 50, a distance of 141.37 feet to the Point of Beginning. The above described tract of land contains 9,093.70 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.
3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri, for the purpose of public road right-of-way. The tract being a part of Lots 50-56 inclusive in HOME PARK, and a part of Lots 25 and 34 in COL. E. M. MCGEE'S SUBDIVISION, and the vacated alley between said lots, subdivisions in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 371.01 feet; thence North 87°15'32" West along said centerline, a distance of 336.38 feet; thence North 02°44'28" East, a distance of 4.97 feet to a point on the south line of said Lot 25 as the True Point of Beginning; thence North 02°48'45" East along a line parallel to the east line of said lot, a distance of 32.83 feet; thence South 87°15'32" East, a distance of 141.37 feet; thence South 85°09'48" East, a distance of 185.81 feet; thence North 46°44'38" East, a distance of 40.06 feet; thence North 02°23'59" East along a line parallel to the east line of said Lots 51-56 inclusive and Lot 34, a distance of 176.59 feet; thence South 87°11'34" East, a distance of 3.00 feet to the east line of said Lot 34; thence South 02°23'59" West along the east line of said Lots 34 and 56-50 inclusive, a distance of 211.58 feet to the southeast corner of said Lot 50; thence North 87°11'15" West along the south line of said Lot 50 and its westerly extension, a distance of 158.11 feet to a point on the east line of said Lot 25; thence South 02°48'45" West along the east line of said lot, a distance of 20.30 feet to the southeast corner of said lot; thence North 87°11'15" West along the south line of said lot, a distance

of 200.00 feet to the Point of Beginning. The above described tract of land contains 8,802.90 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 3. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of the east 125 feet of the south 90.8 feet of Lot 26 in COL. E. M. MCGEE'S SUBDIVISION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North $02^{\circ}42'55''$ East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North $87^{\circ}17'05''$ West along said centerline, a distance of 1,157.64 feet; thence North $87^{\circ}50'48''$ West along said centerline, a distance of 371.01 feet; thence North $87^{\circ}15'32''$ West along said centerline, a distance of 136.43 feet; thence South $02^{\circ}44'28''$ West, a distance of 34.98 feet to a point 30.70 feet south of the northeast corner of said Lot 26; thence South $02^{\circ}48'45''$ West along the east line thereof, a distance of 1.83 feet to the True Point of Beginning; thence South $02^{\circ}48'45''$ West along the east line thereof, a distance of 10.47 feet; thence North $87^{\circ}57'13''$ West, a distance of 67.79 feet; thence North $02^{\circ}48'45''$ East along a line parallel to the east line of said lot, a distance of 5.53 feet; thence North $88^{\circ}00'13''$ West, a distance of 10.95 feet; thence South $02^{\circ}48'45''$ West along a line parallel to the east line of said lot; a distance of 3.84 feet; thence North $88^{\circ}00'13''$ West, a distance of 46.27 feet; thence North $02^{\circ}48'45''$ East along a line parallel to the east line thereof, a distance of 10.33 feet; thence South $87^{\circ}15'32''$ East, a distance of 125.00 feet to the Point of Beginning. The above described tract of land contains 1,265.69 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.
3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of a public right-of-way. The tract of land being a part of the east 125 feet of the south 90.8 feet of Lot 26 in COL. E. M. MCGEE'S SUBDIVISION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North $02^{\circ}42'55''$ East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North $87^{\circ}17'05''$ West along said centerline, a distance of 1,157.64 feet; thence North $87^{\circ}50'48''$ West along said centerline, a distance of 371.01 feet; thence North $87^{\circ}15'32''$ West along said centerline, a distance of 136.43 feet; thence South $02^{\circ}44'28''$ West, a distance of 34.98 feet to a point 30.70 feet south of the northeast corner of said Lot 26 as the True Point of Beginning; thence South $02^{\circ}48'45''$ West along the east line thereof, a distance of 1.83 feet; thence North $87^{\circ}15'32''$ West, a distance of 125.00 feet; thence North $02^{\circ}48'45''$ East along a line parallel to the east line thereof, a distance of 1.99 feet; thence South $87^{\circ}11'15''$ East along a line parallel to the north line thereof, a distance of 125.00 feet to the Point of Beginning. The above described tract of land contains 238.79 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 5. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of public road right-of-way. The tract being a part of Lot 27 in HOME PARK, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 293.00 feet; thence North 02°09'12" East, a distance of 23.97 feet to the southwest corner of Lot 27 as the True Point of Beginning; thence North 02°23'59" East along the west line thereof, a distance of 25.00 feet; thence South 42°53'07" East, a distance of 21.11 feet; thence South 87°11'34" East along a line parallel to the south line of said lot, a distance of 112.90 feet to a point on the West line of a 14 foot alley created by Ordinance No. 10410, passed August 27, 1898; thence South 02°23'59" West along said West line, being parallel to the west line of said lot, a distance of 10.26 feet to a point on the south line of said lot; thence North 87°11'34" West along the south line thereof, a distance of 127.90 feet to the Point of Beginning. The above described tract of land contains 1,423.88 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 6. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract of land being part of Lots 25-27 inclusive in HOME PARK, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 293.00 feet; thence North 02°09'12" East, a distance of 23.97 feet to the southwest corner of Lot 27; thence North 02°23'59" East along the west line thereof, a distance of 25.00 feet to the Point of Beginning; thence North 02°23'59" East along the west line of said Lots 27-25 inclusive, a distance of 60.00 feet to the northwest corner of said Lot 25; thence South 87°11'34" East along the north line thereof, a distance of 127.90 feet; thence South 02°23'59" West along a line parallel to the west line of said Lots 25-27 inclusive, a distance of 74.75 feet; thence North 87°11'34" West along a line parallel to the south line of said Lot 27, a distance of 112.90 feet; thence North 42°53'07" West, a distance of 21.11 feet to the Point of Beginning. The above described tract of land contains 9,448.78 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 7. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A STORM DRAINAGE EASEMENT. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of a storm drainage easement. The tract of land being part of Lot 25 in HOME PARK, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 293.00 feet; thence North 02°09'12" East, a distance of 23.97 feet to the southwest corner of Lot 27; thence North 02°23'59" East along the west line of Lots 27-26, a distance of 60.00 feet to the southwest corner of said Lot 25 as the True Point of Beginning; thence North 02°23'59" East along the west line thereof, a distance of 25.00 feet; thence South 87°11'34" East along the north line of said lot, a distance of 35.00 feet; thence South 02°23'59" West along a line parallel to the west line of said lot, a distance of 25.00 feet to a point on the south line of said lot; thence North 87°11'34" West along the south line thereof, a distance of 35.00 feet to the Point of Beginning. The above described tract of land contains 874.99 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 8. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Block 5 in BOUTON'S ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 30.34 feet; thence North 02°09'12" East, a distance of 20.96 feet to the southeast corner of said Block 5; thence North 87°11'34" West along the south line thereof, a distance of 121.33 feet to a point 7.00 feet east of the southwest corner of said block; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 10.26 feet to the True Point of Beginning; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 55.00 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 63.50 feet; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 65.00 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 51.37 feet; thence North 02°23'59" East along a line parallel to the west line thereof, a distance of 45.64 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 5.00 feet; thence South 02°23'59" West along a line parallel to the east line thereof, a distance of 138.91 feet; thence South 46°59'34" West, a distance of 37.28 feet; thence North 87°11'34" West along a line parallel to the south line thereof, a distance of 94.08 feet to the Point of Beginning. The above described tract of land contains 10,147.88 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 9. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri for the purpose of public road right-of-way. The tract being a part of Block 5 in BOUTON'S ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence

North 87°17'05" West along said centerline, a distance of 1,157.64 feet; thence North 87°50'48" West along said centerline, a distance of 30.34 feet; thence North 02°09'12" East, a distance of 20.96 feet to the southeast corner of said Block 5 as the True Point of Beginning; thence North 87°11'34" West along the south line thereof, a distance of 121.33 feet to a point 7.00 feet east of the southwest corner of said block, also being on the East line of an alley created by Ordinance 10410, passed August 27, 1898; thence North 02°23'59" East along a line parallel to the west line thereof, and said East Alley line, a distance of 10.26 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 94.08 feet; thence North 46°59'34" East, a distance of 37.28 feet; thence North 02°23'59" East along a line parallel to the east line thereof, a distance of 138.91 feet; thence South 87°11'34" East along a line parallel to the south line thereof, a distance of 1.00 feet to the east line of said block; thence South 02°23'59" West along the east line thereof, a distance of 175.91 feet to the Point of Beginning. The above described tract of land contains 1,759.54 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 10. CONVEYANCE OF PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property managed by the department of mental health to the city of Kansas City, Missouri, for the purpose of public road right-of-way. The tract being a part of Lot 1 and 24 in GRANDVIEW SUBDIVISION of Block 11, BOUTON'S ADDITION and the vacated alley between said lots, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,127.08 feet; thence South 02°42'55" West, a distance of 39.68 feet to the northwest corner of said Lot 1 as the True Point of Beginning; thence South 87°15'03" East along the north line thereof, a distance of 24.38 feet; thence South 46°15'45" West, a distance of 33.75 feet; thence South 02°23'59" West along a line parallel to the west line of said Lots 1 and 24, a distance of 130.53 feet to a point on the south line of said Lot 24; thence North 87°15'03" West along the south line thereof, a distance of 1.00 feet to the southwest corner of said Lot 24; thence North 02°23'59" East along the west line of said Lots 24 and 1, a distance of 155.00 feet to the Point of Beginning. The above described tract of land contains 441.15 square feet, more or less.

2. The attorney general shall approve as to form the instruments of conveyance.

SECTION 11. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Lot 1 and 24 in GRANDVIEW SUBDIVISION of Block 11, BOUTON'S ADDITION and the vacated alley between said lots, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,127.08 feet; thence South 02°42'55" West, a distance of 39.68 feet to the northwest corner of said Lot 1; thence South 87°15'03" East along the north line thereof, a distance of 24.38 feet; thence South 46°15'45" West, a distance of 22.20 feet to the True Point of Beginning; thence South

02°23'59" West along a line parallel to the west line of said Lots 1 and 24, a distance of 121.09 feet; thence North 87°15'03" West along a line parallel to the south line of said Lot 24, a distance of 8.00 feet; thence North 02°23'59" East along a line parallel to the west line of said Lots 1 and 24, a distance of 112.72 feet; thence North 46°15'45" East, a distance of 11.55 feet to the Point of Beginning. The above described tract of land contains 930.46 square feet, more or less.

2. A termination date for the easement shall be negotiated by the parties.
3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 12. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Lots 7-8 inclusive in GRANDVIEW SUBDIVISION of Block 11, BOUTON'S ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 1,127.08 feet; thence South 02°42'55" West, a distance of 39.68 feet to the northwest corner of said Lot 1; thence South 87°15'03" East along the North line of Lots 1-7 inclusive, a distance of 167.71 feet to the True Point of Beginning; thence South 87°15'03" East along the north line of said Lots 7-8 inclusive, a distance of 36.09 feet; thence South 02°23'59" West, a distance of 3.00 feet; thence North 87°15'03" West along a line parallel to the North line of said Lots 8-7, a distance of 36.09 feet; thence North 02°23'59" East, a distance of 3.00 feet to the Point of Beginning. The above described tract of land contains 108.22 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.
3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 13. TEMPORARY EASEMENT GRANTED FOR PROPERTY MANAGED BY THE DEPARTMENT OF MENTAL HEALTH TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized to grant a temporary easement for property managed by the department of mental health to the city of Kansas City, Missouri. The tract being a part of Lots 1 and 2, and the north 15 feet of Lot 3, Block 10 of ELM GROVE ADDITION, a subdivision in the Northeast Quarter (NE1/4) of Section 8, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows:

Commencing at the East Quarter Corner of Section 8; thence North 02°42'55" East, a distance of 452.15 feet perpendicular to the proposed centerline of 22nd Street; thence North 87°17'05" West along said centerline, a distance of 727.05 feet; thence South 02°42'55" West, a distance of 39.91 feet to the northwest corner of Lot 1 as the Point of Beginning; thence South 87°15'03" East along the north line of said Lot 1, a distance of 39.95 feet; thence South 02°23'59" West along a line parallel to the west line of said Lot 1, a distance of 6.660 feet; thence North 87°15'03" West along a line parallel to the north line of said lot, a distance of 36.99 feet; thence South 02°23'59" West along a line parallel to the west line of said Lot 1-3 inclusive, a distance of 63.40 feet; thence North 87°15'03" West along a line parallel to the north line of said Lot 1, a distance of 3.00 feet to a point on the west line of said Lot 3; thence North 02°23'59" East along the west line of said Lots 3-1 inclusive, a distance of 70.00 feet to the Point of Beginning. The above described tract of land contains 452.53 square feet, more or less.

2. A termination date for the easement shall be as negotiated by the parties.

3. The attorney general shall approve as to form the instruments of conveyance.

SECTION 14. CONSIDERATION FOR CONVEYANCE OF PROPERTY. — Consideration for the conveyance of title to each of the parcels of property authorized by sections 1 to 13 of this act shall be the fair market value of the property as determined by the commissioner of administration. Consideration may be received in the form of money paid to the state of Missouri, or services provided by the City of Kansas City.

Approved June 27, 2002

SB 810 [HS HCS SCS SB 810]

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 Utilicare program for elderly, disabled, and other qualifying individuals.

AN ACT to repeal sections 8.231, 470.270, 640.651, 640.653, 660.100, 660.105, 660.110, 660.115, 660.120, 660.122, 660.135, 660.136, and 660.285, RSMo, and to enact in lieu thereof fifteen new sections relating to supplemental assistance payments for the elderly and disabled.

SECTION

- A. Enacting clause.
- 8.231. Guaranteed energy cost savings contracts, definitions — bids required, when — proposal request to include what — contract, to whom awarded, to contain certain guarantees.
- 8.235. Division of design and construction to contract for guaranteed energy cost savings contracts by bid, criteria, amount of cost reduction required.
- 470.270. Money or effects involved in litigation — disposition — unclaimed property, state may bring action to recover, when, exceptions.
- 640.651. Definitions.
- 640.653. Application and technical assistance report, content and form — loans, how granted — review and summary by agencies.
- 660.100. Financial assistance for heating — definitions.
- 660.105. Eligibility for assistance — income defined.
- 660.110. Coordination and administration of heating and cooling assistance programs into the Utilicare program by department of social services.
- 660.115. Utilicare payment, procedure.
- 660.122. Services disconnected or discontinued for failure to pay — eligibility for assistance.
- 660.135. Limitation on expenditures — utilicare stabilization fund.
- 660.136. Utilicare stabilization fund created — used for utilicare program.
- 660.285. Director may proceed under other law, when — retention of legal counsel, when.
- 660.690. Protection against spousal impoverishment and premature placement in institutional care, determination of eligibility for Medicaid and Medicare assistance benefits.
1. No ordinance shall prohibit nonprofit organization from reselling donated goods in an area with other retailers, limitation.
- 660.120. Source of funds — households eligible for both utilicare and federal assistance, utilicare limitations.

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

SECTION A. ENACTING CLAUSE. — Sections 8.231, 470.270, 640.651, 640.653, 660.100, 660.105, 660.110, 660.115, 660.120, 660.122, 660.135, 660.136, and 660.285, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 8.231, 8.235, 470.270, 640.651, 640.653, 660.100, 660.105, 660.110, 660.115, 660.122, 660.135, 660.136, 660.285, 660.690, and 1, to read as follows:

8.231. GUARANTEED ENERGY COST SAVINGS CONTRACTS, DEFINITIONS — BIDS REQUIRED, WHEN — PROPOSAL REQUEST TO INCLUDE WHAT — CONTRACT, TO WHOM AWARDED, TO CONTAIN CERTAIN GUARANTEES. — 1. For purposes of this section, the following terms shall mean:

(1) "Energy cost savings measure", a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one or more of the following:

(a) Insulation of the building structure or systems within the building;
(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control system;

(d) Heating, ventilating or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Indoor air quality improvements to increase air quality that conforms to the applicable state or local building code requirements;

(g) Energy recovery systems;

(h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(i) Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes; [or]

(j) Building operation programs that reduce the operating costs; or

(k) Any life safety measures related to compliance with the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., that provide long-term operating cost reductions and are in compliance with state and local codes;

(2) "Governmental unit", a state government agency, department, institution, college, university, technical school, legislative body or other establishment or official of the executive, judicial or legislative branches of this state authorized by law to enter into contracts, including all local political subdivisions such as counties, municipalities, public school districts or public service or special purpose districts;

(3) "Guaranteed energy cost savings contract", a contract for the implementation of one or more such measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the energy cost savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed energy cost savings contracts shall be considered public works contracts to the extent that they provide for capital improvements to existing facilities;

(4) "Operational savings", expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(5) "Qualified provider", a person or business experienced in the design, implementation and installation of energy cost savings measures;

(6) "Request for proposals" or "RFP", a negotiated procurement.

2. No governmental unit shall enter into a guaranteed energy cost savings contract until competitive proposals therefor have been solicited by the means most likely to reach those contractors interested in offering the required services, including but not limited to direct mail solicitation, electronic mail and public announcement on bulletin boards, physical or electronic. The request for proposal shall include the following:

(1) The name and address of the governmental unit;

(2) The name, address, title and phone number of a contact person;

(3) The date, time and place where proposals shall be received;

- (4) The evaluation criteria for assessing the proposals; and
 - (5) Any other stipulations and clarifications the governmental unit may require.
3. The governmental unit shall award a contract to the qualified provider that provides the lowest and best proposal which meets the needs of the unit if it finds that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount of energy or operational savings, or both, within a ten-year period from the date installation is complete, if the recommendations in the proposal are followed. The governmental unit shall have the right to reject any and all bids.
4. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed the costs of the energy cost savings measures, adjusted for inflation, within ten years. The qualified provider shall reimburse the governmental unit for any shortfall of guaranteed energy cost savings on an annual basis. The guaranteed energy cost savings contract may provide for payments over a period of time, not to exceed ten years, subject to appropriation of funds therefor.
5. The governmental unit shall include in its annual budget and appropriations measures for each fiscal year any amounts payable under guaranteed energy savings contracts during that fiscal year.
6. A governmental unit may use designated funds for any guaranteed energy cost savings contract including purchases using installment payment contracts or lease purchase agreements, so long as that use is consistent with the purpose of the appropriation.
7. Notwithstanding any provision of this section to the contrary, a not-for-profit corporation incorporated pursuant to chapter 355, RSMo, and operating primarily for educational purposes in cooperation with public or private schools shall be exempt from the provisions of this section.

8.235. DIVISION OF DESIGN AND CONSTRUCTION TO CONTRACT FOR GUARANTEED ENERGY COST SAVINGS CONTRACTS BY BID, CRITERIA, AMOUNT OF COST REDUCTION REQUIRED. — 1. Notwithstanding subsection 3 of section 8.231 and section 34.040, RSMo, the division of design and construction is hereby authorized to contract for guaranteed energy cost savings contracts by selecting a bid for proposal from a contractor or team of contractors using the following criteria:

- (1) The specialized experience and technical competence of the firm or team with respect to the type of services required;
- (2) The capacity and capability of the firm or team to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project; and
- (3) The past record of performance of the firm or team with respect to such factors as control of costs, quality of work and ability to meet schedules.

2. Each guaranteed energy cost saving contract, authorized pursuant to this section, shall reduce the estimated energy consumption by a minimum of twelve percent or reduce the cost of energy and related savings by a minimum of twelve percent.

3. The guaranteed energy cost saving contract shall otherwise be in accordance with the provisions of section 8.231.

4. The division of design and construction is authorized to use this procurement process for eight projects.

470.270. MONEY OR EFFECTS INVOLVED IN LITIGATION — DISPOSITION — UNCLAIMED PROPERTY, STATE MAY BRING ACTION TO RECOVER, WHEN, EXCEPTIONS. — After the owner, his or her assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the state of Missouri for any service rendered or to be rendered in said state, or for any contract of

insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the state of Missouri or in connection with any cause in any United States court, or so paid into the custody of any depository, clerk, custodian, or other officer of such court, whether the same be afterwards transferred and deposited in the United States treasury or not, shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of five successive years, or such moneys, refund of rates or premiums or effects remain unclaimed for the period heretofore, or hereafter, of five successive years, from the time such moneys or property are ordered repaid or distributed by such courts, such moneys or property shall be escheatable to the state of Missouri, and may be escheated to the state of Missouri in the manner herein provided, with all interest and earnings actually accrued thereon to the date of the judgment and decree for the escheat of the same; **except that all refunds of rates generated by the refund of natural gas or electric rates shall be transferred to the utilicare stabilization fund created pursuant to section 660.136, RSMo, with the exception of lawsuits in which the state of Missouri is a party, if the moneys that result from a refund of rates remains unclaimed after five years from the date when such rates are ordered repaid, with all interest from such refunded rates that is earned from the date such rates are ordered repaid to escheat to the state as otherwise provided in sections 470.270 to 470.350.** The provisions of this section notwithstanding, this state may elect to take custody of such unclaimed property by instituting a proceeding pursuant to section 447.575, RSMo.

640.651. DEFINITIONS. — As used in sections 640.651 to 640.686, the following terms mean:

(1) "Applicant", any school, hospital, small business, local government or other energy-using sector or entity authorized by the department through administrative rule, which submits an application for loans on financial assistance to the department;

(2) "Application cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications seeking loans or financial assistance under the provisions of sections 640.651 to 640.686;

(3) "Authority", the environmental improvement and energy resources authority;

(4) "Borrower", a recipient of loan or other financial assistance program funds subsequent to the execution of loan or financial assistance documents with the department or other applicable parties provided that a building owned by the state or an agency thereof **other than a state college or state university**, shall not be eligible for loans or financial assistance pursuant to sections 640.651 to 640.686;

(5) "Building", including initial installation in a new building, any applicant-owned and -operated structure, group of closely situated structural units that are centrally metered or served by a central utility plant, or an eligible portion thereof, which includes a heating or cooling system, or both;

(6) "Department", the department of natural resources;

(7) "Energy conservation loan account", an account to be established on the books of a borrower for purposes of tracking information related to the receipt or expenditure of the loan funds or financial assistance, and to be used to receive and remit energy cost savings for purposes of making payments on the loan or financial assistance;

(8) "Energy conservation measure" or "ECM", an installation or modification of an installation in a building or replacement or modification to an energy-consuming process or system which is primarily intended to maintain or reduce energy consumption and reduce energy costs, or allow the use of an alternative or renewable energy source;

(9) "Energy conservation project" or "project", the design, acquisition, installation, and implementation of one or more energy conservation measures;

(10) "Energy cost savings" or "savings", the value, in terms of dollars, that has or is estimated to accrue from energy savings or avoided costs due to implementation of an energy conservation project;

(11) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings;

(12) "Fund", the energy set-aside program fund established in section 640.665;

(13) "Hospital", a facility as defined in subsection 2 of section 197.020, RSMo, including any medical treatment or related facility controlled by a hospital board;

(14) "Hospital board", the board of directors having general control of the property and affairs of the hospital facility;

(15) "Loan agreement", a document agreed to by the borrower's school, hospital or corporate board, principals of a business, the governing body of a local government or other authorized officials and the department or other applicable parties and signed by the authorized official thereof, that details all terms and requirements under which the loan is issued or other financial assistance granted, and describes the terms under which the loan or financial assistance repayment shall be made;

(16) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which may include an estimated simple payback or life-cycle costing method of economic analysis and used solely for purposes of ranking applications for the selection of loan and financial assistance recipients within the balance of program funds available;

(17) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project, and, for initial installation in a new building, shall include the incremental cost of a high-efficiency system;

(18) ["Repayment period", unless otherwise negotiated as required under section 640.660, the period in years required to repay a loan or financial assistance as determined by the projects' estimated simple payback or life-cycle costing analysis, and rounded to the next year in cases where the estimated simple payback or life-cycle costing analysis is in a fraction of a year;

(19) "School", an institution operated by a **state college or state university**, public agency, political subdivision or a public or private nonprofit organization tax exempt under section 501(c)(3) of the Internal Revenue Code which:

(a) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

(b) Provides and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis; admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate; is accredited by a nationally recognized accrediting agency or association; and provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program; or

(c) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; provides and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis; admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate; and is accredited by a nationally recognized accrediting agency or association;

[(20)] (19) "School board", the board of education having general control of the property and affairs of any school as defined in this section;

[(21)] (20) "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;

[22] (21) "Unobligated balance", that amount in the fund that has not been dedicated to any projects at the end of each state fiscal year.

640.653. APPLICATION AND TECHNICAL ASSISTANCE REPORT, CONTENT AND FORM — LOANS, HOW GRANTED — REVIEW AND SUMMARY BY AGENCIES. — 1. An application for loan funds or other financial assistance 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. The application shall be accompanied by a technical assistance report. The application and the technical assistance report shall be in such form and contain such information, financial or otherwise, as prescribed by the department. This section shall not preclude any applicant or borrower from joining in a cooperative project with any other local government or with any state or federal agency or entity in an energy conservation project; provided that, all other requirements of sections 640.651 to 640.686 are met.

2. Eligible applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans and financial assistance beginning with the lowest payback score and continuing in ascending order to the highest payback score until all available program funds have been obligated within any given application cycle. The selection criteria may be applied per sector or entity to assure equity pursuant to section 640.674. In no case shall a loan or financial assistance be made to finance an energy project with a payback score of less than six months or more than **[eight years] ten years or eighty percent of the expected useful life of the energy conservation measures when the expected useful life exceeds ten years**. Repayment periods are to be determined by the department. Applications may be approved for loans or financial assistance 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 or financial assistance. In no case shall a loan or financial assistance be made to an applicant unless the approval of the governing board or body of the applicant to the loan agreement is obtained and a written certification of such approval is provided, where applicable.

3. The department shall approve or disapprove all applications for loans or financial assistance which are sent by certified or registered mail or hand delivered and received by the department's division of energy on, or prior to, the ninetieth day following the date of application cycle closing. Any applications which are not acted upon by the department by such date shall be deemed to be approved as submitted.

4. The department of elementary and secondary education shall be provided a summary of all proposed public elementary and secondary school projects for review within fifteen days from the application deadline. Once projects have been reviewed and selected for loans or financial assistance by the department, the department of elementary and secondary education shall have thirty days to certify that those projects selected for loans or financial assistance are consistent with related state programs for public education facilities.

5. The department of health and senior services shall be provided a summary of all proposed hospital projects for review within fifteen days from the application deadline. Once projects have been reviewed and selected for loans or financial assistance by the department of natural resources, the department of health and senior services shall have thirty days to certify that those projects selected for loans or financial assistance are consistent with related health requirements for hospital facilities.

6. The coordinating board for higher education shall be provided a summary of all proposed public higher education facility projects for review within fifteen days from the application deadline. Once projects have been reviewed and selected for loans and financial assistance by the department, the coordinating board for higher education shall have thirty days to certify that those projects selected for loans or financial assistance are consistent with related state programs for education facilities.

660.100. FINANCIAL ASSISTANCE FOR HEATING — DEFINITIONS. — 1. The department of social services is directed to establish a plan for providing financial assistance to elderly households, disabled households and qualified individual households for the payment of charges for the primary or secondary heating or cooling source for the household. This plan shall be known as "Utilicare".

2. For purposes of sections 660.100 to 660.136, the term "elderly" shall mean having reached the age of sixty-five and the term "disabled" shall mean totally and permanently disabled or blind and receiving federal Social Security disability benefits, federal supplemental security income benefits, veterans administration benefits, state blind pension pursuant to sections 209.010 to 209.160, RSMo, state aid to blind persons pursuant to section 209.240, RSMo, or state supplemental payments pursuant to section 208.030, RSMo. For the purposes of sections 660.100 to 660.136, but not for the purpose of determining "eligible subscribers" pursuant to subdivision (4) of section 660.138, the term "qualified individual household" shall mean a household in which:

(1) One or more residents of the state of Missouri reside and whose combined household income is less than or equal to one hundred and [ten] **fifty** percent of the current federal poverty level **or sixty percent of the state median income** for the relevant household; and

(2) While the Federal Low Income Home Energy Assistance Program remains in effect, the household is also determined to be eligible for assistance under such program and related state programs of the Missouri department of social services.

660.105. ELIGIBILITY FOR ASSISTANCE — INCOME DEFINED. — Every qualified individual household for which an application is made, and every applicant household in which the head of the household or spouse is elderly or disabled and the income for the prior calendar year does not exceed one hundred and [ten] **fifty** percent of the current federal poverty level **or sixty percent of the state median income**, shall be an "eligible household" and shall be entitled to receive assistance under the utilicare program if moneys have been appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136. "Income" shall be as defined in section 135.010, RSMo.

660.110. COORDINATION AND ADMINISTRATION OF HEATING AND COOLING ASSISTANCE PROGRAMS INTO THE UTILICARE PROGRAM BY DEPARTMENT OF SOCIAL SERVICES. — The department of social services shall be responsible for coordination of all federal heating assistance programs [as well as] **into** the utilicare program and shall provide plans for the implementation and administration of these programs. [Except as otherwise provided in sections 660.100 to 660.136, the utilicare program shall be administered in the same manner as the Federal Low Income Emergency Assistance Program.] The department may contract with local not-for-profit community agencies which render energy assistance pursuant to affiliation or contract with the United States Community Service Administration or another federal agency to distribute the federal moneys [and], to administer the federal heating and cooling assistance programs in accordance with the plan developed by the department[. The department may contract with local not-for-profit community agencies which render energy assistance pursuant to affiliation or contract with the United States Community Service Administration or another federal agency] **and** to provide certain administrative services in connection with the utilicare program which may include the processing of utilicare applications and any other service which the department deems practical. Insofar as possible, within the provisions of federal law and regulations, all payments made from funds available from the Crude Oil Windfall Profit Tax Act of 1980 and other federal sources shall be made directly to energy suppliers in a manner similar to payments made under the state utilicare program.

660.115. UTILICARE PAYMENT, PROCEDURE. — 1. For each eligible household, an amount not exceeding [one hundred fifty] **six hundred** dollars for each fiscal year may be paid

from the utilicare stabilization fund to the primary or secondary heating source supplier, or both, including suppliers of heating fuels, such as gas, electricity, wood, coal, propane and heating oil. For each eligible household, an amount not exceeding [one hundred fifty] **six hundred** dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary cooling source supplier, or both.]; **provided that the respective shares of overall funding previously received by primary and secondary heating and cooling source suppliers on behalf of their customers shall be substantially maintained.** [Notwithstanding any other provision of sections 610.100 to 660.136 to the contrary, the amount paid from the utilicare stabilization fund for cooling assistance in any single cooling season shall not exceed the lesser of five percent of the total amount appropriated by the general assembly to the fund for the most recent fiscal year or five hundred thousand dollars.]

2. For an eligible household, other than a household located in publicly owned or subsidized housing, an adult boarding facility, an intermediate care facility, a residential care facility or a skilled nursing facility, whose members rent their dwelling and do not pay a supplier directly for the household's primary or secondary heating or cooling source, utilicare payments shall be paid directly to the head of the household, except that total payments shall not exceed eight percent of the household's annual rent or one hundred dollars, whichever is less.

660.122. SERVICES DISCONNECTED OR DISCONTINUED FOR FAILURE TO PAY — ELIGIBILITY FOR ASSISTANCE. — [Notwithstanding any other provision of sections 660.100 to 660.136 to the contrary,] Funds appropriated under the authority of sections 660.100 to 660.136 may be used to pay the expenses of reconnecting or maintaining service to households that have had their primary or secondary heating or cooling source disconnected or service discontinued because of their failure to pay their bill. Any qualified household or other household which has as its head a person who is elderly or disabled, as defined in section 660.100, shall be eligible for assistance under this section if the income for the household is no more than one hundred [ten] **fifty** percent of the current federal poverty level **or sixty percent of the state median income** and if moneys have been appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136. Payments under this section shall be made directly to the primary or secondary heating or cooling source supplier. Any primary or secondary heating or cooling source supplier subject to the supervision and regulation of the public service commission shall, at any time during the period of the cold weather rule specified in the cold weather rule as established and as amended by the public service commission, reconnect and provide services to each household eligible for assistance under this section in compliance with the terms of such cold weather rule. All home energy suppliers receiving funds under this section shall provide service to eligible households consistent with their contractual agreements with the department of social services. [Notwithstanding the above, the division of family services shall only utilize general revenue funds appropriated in conjunction with this chapter after such time as the division has obligated all federal emergency funds available for the purposes enumerated above.]

660.135. LIMITATION ON EXPENDITURES — UTILICARE STABILIZATION FUND. — 1. Not more than five million dollars from state general revenue shall be appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 for the support of the utilicare program established by sections 660.100 to 660.136 for any fiscal year, except in succeeding years the amount of state funds may be increased by a percentage which reflects the national cost-of-living index or seven percent, whichever is lower.

2. The department of social services may, in coordination with the department of natural resources, apply a portion of the funds appropriated annually by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 to the low income weatherization assistance program of the department of natural resources; provided that any project financed with such funds shall [have a full energy savings payback period of no greater

than ten years] be consistent with federal guidelines for the Weatherization Assistance Program for Low-Income Persons as authorized by 42 U.S.C. 6861.

660.136. UTILICARE STABILIZATION FUND CREATED — USED FOR UTILICARE PROGRAM. — 1. The "Utilicare Stabilization Fund" is hereby created in the state treasury to support the provisions of sections 660.100 to 660.136. **Funds for the utilicare program may come from state, federal or other sources including funds received by this state from the federal government under the provisions of the Community Opportunities Accountability and Training and Educational Services Act of 1998 (Title III, Section 301-309, Public Law 93.568), together with any interest or other earnings on the principal of this fund. Except as provided in subsection 3, moneys in the utilicare stabilization fund [that are not required to meet or augment the utilicare funding requirements of the state in any fiscal year shall be invested by the state treasurer in the same manner as other surplus funds are invested. Interest, dividends and moneys earned on such investments shall be credited to the utilicare stabilization fund. Such fund may also receive gifts, grants, contributions, appropriations and funds or benefits from any other source or sources, and make investments of the unexpended balances thereof] shall be used for the purposes established in the Federal Low Income Home Energy Assistance Program and sections 660.100 to 660.136.**

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. Moneys in the utilicare fund not needed currently for the purposes designated in sections 660.100 to 660.136, may be invested by the state treasurer in the manner that other moneys of the state are authorized by law to be invested. All interest, income and returns from moneys of the utilicare stabilization fund shall be deposited in the state treasury to the credit of the utilicare stabilization fund.

3. When the utilicare stabilization fund receives a transfer pursuant to section 470.270, RSMo, the moneys from that transfer shall be held in the fund for one full year after the date of transfer and shall be used to pay for heating or cooling assistance as provided in sections 660.100 to 660.136. Any moneys remaining at the end of that year shall be deposited in the state treasury to the credit of the general revenue fund of the state.

660.285. DIRECTOR MAY PROCEED UNDER OTHER LAW, WHEN — RETENTION OF LEGAL COUNSEL, WHEN. — 1. If the director determines after an investigation that an eligible adult is unable to give consent to receive protective services and presents a likelihood of serious physical harm, the director may initiate proceedings pursuant to chapter 202, RSMo, or chapter 475, RSMo, if appropriate.

2. In order to expedite adult guardianship and conservatorship cases, the department may retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

660.690. PROTECTION AGAINST SPOUSAL IMPOVERISHMENT AND PREMATURE PLACEMENT IN INSTITUTIONAL CARE, DETERMINATION OF ELIGIBILITY FOR MEDICAID AND MEDICARE ASSISTANCE BENEFITS. — In order to protect the community spouse of an individual living in a residential care facility I or residential care facility II, as defined in section 198.006, RSMo, from impoverishment and to prevent premature placement in a more expensive, more restrictive environment, the division of family services shall comply with the provisions of subsection 6 of section 208.010, RSMo, when determining the eligibility for benefits pursuant to section 208.030, RSMo.

SECTION 1. NO ORDINANCE SHALL PROHIBIT NONPROFIT ORGANIZATION FROM RESELLING DONATED GOODS IN AN AREA WITH OTHER RETAILERS, LIMITATION. — Notwithstanding any provision of section 89.020, RSMo, to the contrary, the legislative body of all cities, towns, and villages is hereby prohibited from passing any zoning law, ordinance, or code that would prevent any entity organized pursuant to Section 501(c)(3) of the Internal Revenue Code that owns or operates a retail business engaged in the practice of reselling donated goods from operating a business establishment within any area where any other business engaged in retail sales is permitted to operate; provided that at least eighty percent of all revenue generated by such entity is used to fund the charitable purpose of the organization.

[660.120. SOURCE OF FUNDS — HOUSEHOLDS ELIGIBLE FOR BOTH UTILICARE AND FEDERAL ASSISTANCE, UTILICARE LIMITATIONS. — 1. Funds for the utilicare program may come from state, federal, or other sources.

2. Any household which is eligible to receive both federal assistance and utilicare assistance in paying for its primary or secondary heating or cooling source may receive utilicare assistance only as follows: In the event that the federal assistance available to such household is less than the total benefits available to the household under the provisions of section 660.115, then the household may receive utilicare assistance only in an amount equal to the amount of the difference between the federal assistance available in paying for its primary or secondary heating or cooling source and the total benefits available to such household under the provisions of section 660.115.]

Approved July 2, 2002

SB 812 [SB 812]

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

Requires all executive orders to be published in the Missouri Register after January 1, 2003.

AN ACT to repeal section 536.035, RSMo, relating to the publication of executive orders in the Missouri Register, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

536.035. Rules and orders to be permanent public record — publication in Missouri Register required.

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

SECTION A. ENACTING CLAUSE. — Section 536.035, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 536.035, to read as follows:

536.035. RULES AND ORDERS TO BE PERMANENT PUBLIC RECORD — PUBLICATION IN MISSOURI REGISTER REQUIRED. — 1. All rules or executive orders filed with the secretary of state pursuant to sections 536.015 to 536.043 shall be retained permanently and shall be open to public inspection at all reasonable times.

2. Beginning January 1, 2003, all executive orders issued after said date shall be published in the Missouri Register.

Approved July 12, 2002

SB 831 [SB 831]

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

Establishes December 15 as Bill of Rights Day.

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to public holidays.

SECTION

- A. Enacting clause.
9.141. Bill of Rights Day established.

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 9.141, to read as follows:

9.141. BILL OF RIGHTS DAY ESTABLISHED. — **December fifteenth is hereby established as the "Bill of Rights Day" in Missouri to provide an opportunity for the people of Missouri to reflect upon the meaning, importance and uniqueness of this document. The people of the state, offices of government, and all civic organizations in the state are requested to devote a part of the day to the bill of rights. The bill of rights should be read in public schools and the day should be remembered with appropriate exercises. The bill of rights should be read in all courtrooms that meet or convene and the bill of rights shall be read in both chambers of the general assembly on the first legislative day after bill of rights day.**

Approved July 3, 2002

SB 834 [HS HCS SCS SB 834]

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

Allows Sunday liquor sales by the drink at establishments within an international airport.

AN ACT to repeal sections 311.070, 311.178, and 311.680, RSMo, and to enact in lieu thereof four new sections relating to liquor control.

SECTION

- A. Enacting clause.
311.070. Financial interest in retail businesses by certain licensees prohibited, exceptions — penalties — definitions — activities permitted between wholesalers and licensees — certain contracts unenforceable — contributions to certain organizations permitted, when — sale of Missouri wines only, license issued, when.
311.178. Convention trade area, St. Louis County, liquor sale by drink, extended hours for business, requirements, fee — resort defined — special permit for liquor sale by drink, Miller, Morgan, and Camden counties, expiration date.
311.481. Sunday liquor sales for airline clubs.
311.680. Disorderly place, warning, probation, suspension or revocation of license, when, notice — civil penalties — meet and confer opportunity, when.
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Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 311.070, 311.178, and 311.680, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 311.070, 311.178, 311.481, and 311.680, to read as follows:

311.070. FINANCIAL INTEREST IN RETAIL BUSINESSES BY CERTAIN LICENSEES PROHIBITED, EXCEPTIONS — PENALTIES — DEFINITIONS — ACTIVITIES PERMITTED BETWEEN WHOLESALERS AND LICENSEES — CERTAIN CONTRACTS UNENFORCEABLE — CONTRIBUTIONS TO CERTAIN ORGANIZATIONS PERMITTED, WHEN — SALE OF MISSOURI WINES ONLY, LICENSE ISSUED, WHEN. — 1. Distillers, wholesalers, winemakers, brewers or their employees, officers or agents, shall not, except as provided in this section, directly or indirectly, have any financial interest in the retail business for sale of intoxicating liquors, and shall not, except as provided in this section, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit for liquors sold to such retail dealers. However, notwithstanding any other provision of this chapter to the contrary, for the purpose of the promotion of tourism, a distiller whose manufacturing establishment is located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as in this chapter defined, by the drink at retail for consumption on the premises where sold; and provided further that the premises so licensed shall be in close proximity to the distillery and may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, or 311.095.

2. Any distiller, wholesaler, winemaker or brewer who shall violate the provisions of subsection 1 of this section, or permit his employees, officers or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as follows:

- (1) For the first offense, by a fine of one thousand dollars;
- (2) For a second offense, by a fine of five thousand dollars; and
- (3) For a third or subsequent offense, by a fine of ten thousand dollars or the license of such person shall be revoked.

3. As used in this section, the following terms mean:

(1) "Consumer advertising specialties", advertising items that are designed to be carried away by the consumer, such items include, but are not limited to: trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pencils, shirts, caps and visors;

(2) "Equipment and supplies", glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing accessories" include standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves;

(3) "Point of sale advertising materials", advertising items designed to be used within a retail business establishment to attract consumer attention to the products of a distiller, wholesaler, winemaker or brewer. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars and alcoholic beverage lists or menus;

(4) "Product display", wine racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold and display consumer products;

(5) "Promotion", an advertising and publicity campaign to further the acceptance and sale of the merchandise or products of a distiller, wholesaler, winemaker or brewer.

4. Notwithstanding other provisions contained herein, the distiller, wholesaler, winemaker or brewer, or their employees, officers or agents may engage in the following activities with a retail licensee licensed pursuant to this chapter or chapter 312, RSMo:

(1) The distiller, wholesaler, winemaker or brewer may give or sell product displays to a retail business if all of the following requirements are met:

(a) The total value of all product displays given or sold to a retail business shall not exceed three hundred dollars per brand at any one time in any one retail outlet. There shall be no combining or pooling of the three hundred dollar limits to provide a retail business a product display in excess of three hundred dollars per brand. The value of a product display is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such product display. Transportation and installation costs shall be excluded;

(b) All product displays shall bear in a conspicuous manner substantial advertising matter on the product or the name of the distiller, wholesaler, winemaker or brewer. The name and address of the retail business may appear on the product displays; and

(c) The giving or selling of product displays may be conditioned on the purchase of intoxicating beverages advertised on the displays by the retail business in a quantity necessary for the initial completion of the product display. No other condition shall be imposed by the distiller, wholesaler, winemaker or brewer on the retail business in order for such retail business to obtain the product display;

(2) Notwithstanding any provision of law to the contrary, the distiller, wholesaler, winemaker or brewer may give or sell any point of sale advertising materials and consumer advertising specialties to a retail business if all the following requirements are met:

(a) The total value of all point of sale advertising materials and consumer advertising specialties given or sold to a retail business shall not exceed five hundred dollars per year, per brand, per retail outlet. The value of point-of-sale advertising materials and consumer advertising specialties is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such item. Transportation and installation costs shall be excluded;

(b) All point-of-sale advertising materials and consumer advertising specialties shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer. The name, address and logos of the retail business may appear on the point-of-sale advertising materials or the consumer advertising specialties; and

(c) The distiller, wholesaler, winemaker or brewer shall not directly or indirectly pay or credit the retail business for using or distributing the point-of-sale advertising materials or consumer advertising specialties or for any incidental expenses arising from their use or distribution;

(3) A malt beverage wholesaler or brewer may give a gift not to exceed a value of one thousand dollars per year, or sell something of value to a holder of a temporary permit as defined in section 311.482;

(4) The distiller, wholesaler, winemaker or brewer may sell equipment or supplies to a retail business if all the following requirements are met:

(a) The equipment and supplies shall be sold at a price not less than the cost to the distiller, wholesaler, winemaker or brewer who initially purchased such equipment and supplies; and

(b) The price charged for the equipment and supplies shall be collected in accordance with credit regulations as established in the code of state regulations;

(5) The distiller, wholesaler, winemaker or brewer may install dispensing accessories at the retail business establishment, which shall include for the purposes of intoxicating and nonintoxicating beer equipment to properly preserve and serve draught beer only and to facilitate the delivery to the retailer the brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services: beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms, beer

faucets and tap markers, beer and air hose, taps, vents and washers, gauges and regulators, beer and air distributors, beer line insulation, coil flush hose, couplings and bucket pumps; portable coil boxes, air pumps, blankets or other coverings for temporary wrappings of barrels, coil box overflow pipes, tilting platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box grates, floor runways; and damage caused by any beer delivery excluding normal wear and tear and a complete record of equipment furnished and installed and repairs and service made or rendered must be kept by the brewer or wholesalers furnishing, making or rendering same for a period of not less than one year;

(6) The distiller, wholesaler, winemaker or brewer may furnish, give or sell coil cleaning service to a retailer of distilled spirits, wine or malt beverages;

(7) A wholesaler of intoxicating liquor may furnish or give and a retailer may accept a sample of distilled spirits or wine as long as the retailer has not previously purchased the brand from that wholesaler, if all the following requirements are met:

(a) The wholesaler may furnish or give not more than seven hundred fifty milliliters of any brand of distilled spirits and not more than seven hundred fifty milliliters of any brand of wine; if a particular product is not available in a size within the quantity limitations of this subsection, a wholesaler may furnish or give to a retailer the next larger size;

(b) The wholesaler shall keep a record of the name of the retailer and the quantity of each brand furnished or given to such retailer;

(c) For the purposes of this subsection, no samples of intoxicating liquor provided to retailers shall be consumed on the premises nor shall any sample of intoxicating liquor be opened on the premises of the retailer except as provided by the retail license;

(d) For the purpose of this subsection, the word "brand" refers to differences in brand name of product or differences in nature of product; examples of different brands would be products having a difference in: brand name; class, type or kind designation; appellation of origin (wine); viticulture area (wine); vintage date (wine); age (distilled spirits); or proof (distilled spirits); differences in packaging such a different style, type, size of container, or differences in color or design of a label are not considered different brands;

(8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating beverages in combination with other nonalcoholic items as originally packaged by the supplier for sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose of this subsection, intoxicating liquor and wine wholesalers are not required to charge for nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the supplier;

(9) The distiller, wholesaler, winemaker or brewer may sell or give the retail business newspaper cuts, mats or engraved blocks for use in the advertisements of the retail business;

(10) The distiller, wholesaler, winemaker or brewer may in an advertisement list the names and addresses of two or more unaffiliated retail businesses selling its product if all of the following requirements are met:

(a) The advertisement shall not contain the retail price of the product;

(b) The listing of the retail businesses shall be the only reference to such retail businesses in the advertisement;

(c) The listing of the retail businesses shall be relatively inconspicuous in relation to the advertisement as a whole; and

(d) The advertisement shall not refer only to one retail business or only to a retail business controlled directly or indirectly by the same retail business;

(11) Notwithstanding any other provision of law to the contrary, distillers, winemakers, wholesalers, brewers or retailers may conduct a local or national sweepstakes/contest upon a licensed retail premise. However, no money or something of value may be given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest;

(12) The distiller, wholesaler, winemaker or brewer may stock, rotate, rearrange or reset the products sold by such distiller, wholesaler, winemaker or brewer at the establishment of the retail

business so long as the products of any other distiller, wholesaler, winemaker or brewer are not altered or disturbed;

(13) The distiller, wholesaler, winemaker or brewer may provide a recommended shelf plan or shelf schematic for distilled spirits, wine or malt beverages;

(14) The distiller, wholesaler, winemaker or brewer participating in the activities of a retail business association may do any of the following:

- (a) Display its products at a convention or trade show;
- (b) Rent display booth space if the rental fee is the same paid by all others renting similar space at the association activity;
- (c) Provide its own hospitality which is independent from the association activity;
- (d) Purchase tickets to functions and pay registration fees if such purchase or payment is the same as that paid by all attendees, participants or exhibitors at the association activity; and
- (e) Make payments for advertisements in programs or brochures issued by retail business associations at a convention or trade show if the total payments made for all such advertisements do not exceed three hundred dollars per year for any retail business association;

(15) The distiller, wholesaler, winemaker or brewer may sell its other merchandise which does not consist of intoxicating beverages to a retail business if the following requirements are met:

- (a) The distiller, wholesaler, winemaker or brewer shall also be in business as a bona fide producer or vendor of such merchandise;
- (b) The merchandise shall be sold at its fair market value;
- (c) The merchandise is not sold in combination with distilled spirits, wines or malt beverages except as provided in this section;
- (d) The acquisition or production costs of the merchandise shall appear on the purchase invoices or records of the distiller, wholesaler, winemaker or brewer; and
- (e) The individual selling prices of merchandise and intoxicating beverages sold to a retail business in a single transaction shall be determined by commercial documents covering the sales transaction;

(16) The distiller, wholesaler, winemaker or brewer may sell or give an outside sign to a retail business if the following requirements are met:

- (a) The sign shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer;
- (b) The retail business shall not be compensated, directly or indirectly, for displaying the sign; and
- (c) The cost of the sign shall not exceed four hundred dollars;

(17) A wholesaler may, but shall not be required to, exchange for an equal quantity of identical product or allow credit against outstanding indebtedness for intoxicating liquor with alcohol content of less than five percent by weight or nonintoxicating beer that was delivered in a damaged condition or damaged while in the possession of the retailer;

(18) To assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight or nonintoxicating beer in its undamaged original carton from the retailer's stock, if the wholesaler replaces the product with an equal quantity of identical product;

(19) In addition to withdrawals authorized pursuant to subdivision (18) of this subsection, to assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight and nonintoxicating beer in its undamaged original carton from the retailer's stock and give the retailer credit against outstanding indebtedness for the product if:

(a) The product is withdrawn at least thirty days after initial delivery and within twenty-one days of the date considered by the manufacturer of the product to be the date the product becomes inappropriate for sale to a consumer; and

(b) The quantity of product withdrawn does not exceed the equivalent of twenty-five cases of twenty-four twelve-ounce containers; and

(c) To assure and control product quality, a wholesaler may, but not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight or nonintoxicating beer, in a container with a capacity of four gallons or more, delivered but not used, if the wholesaler removes the product within seven days of the initial delivery; and

(20) Nothing in this section authorizes consignment sales.

5. All contracts entered into between distillers, brewers and winemakers, or their officers or directors, in any way concerning any of their products, obligating such retail dealers to buy or sell only the products of any such distillers, brewers or winemakers or obligating such retail dealers to buy or sell the major part of such products required by such retail vendors from any such distiller, brewer or winemaker, shall be void and unenforceable in any court in this state.

6. Notwithstanding any other provisions of this chapter to the contrary, a distiller or wholesaler may install dispensing accessories at the retail business establishment, which shall include for the purposes of distilled spirits, equipment to properly preserve and serve premixed distilled spirit beverages only. To facilitate delivery to the retailer, the distiller or wholesaler may lend, give, rent or sell and the distiller or wholesaler may install or repair any of the following items or render to retail licensees any of the following services: coils and coil cleaning, draft arms, faucets and tap markers, taps, tap standards, tapping heads, hoses, valves and other minor tapping equipment components, and damage caused by any delivery excluding normal wear and tear. A complete record of equipment furnished and installed and repairs or service made or rendered shall be kept by the distiller or wholesaler, furnishing, making or rendering the same for a period of not less than one year.

7. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, distillers, winemakers, brewers or their employees, or officers shall be permitted to make contributions of money or merchandise to a licensed retail liquor dealer that is a charitable or religious organization as defined in section 313.005, RSMo, or an educational institution if such contributions are unrelated to such organization's retail operations.

8. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, a brewer or manufacturer, its employees, officers or agents may have a financial interest in the retail business for sale of intoxicating liquors and nonintoxicating beer at entertainment facilities owned, in whole or in part, by the brewer or manufacturer, its subsidiaries or affiliates including, but not limited to, arenas and stadiums used primarily for concerts, shows and sporting events of all kinds.

9. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a wine manufacturer, its employees, officers or agents located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold, if the premises so licensed is in close proximity to the winery. Such premises may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday.

10. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a person may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor by the drink at retail for consumption on the premises where sold, but the person so licensed shall sell only Missouri-produced wines received from manufacturers licensed pursuant to section 311.190. Such premises may remain open between the hours of 6:00 a.m. and midnight,

Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m. on Sundays.

311.178. CONVENTION TRADE AREA, ST. LOUIS COUNTY, LIQUOR SALE BY DRINK, EXTENDED HOURS FOR BUSINESS, REQUIREMENTS, FEE — RESORT DEFINED — SPECIAL PERMIT FOR LIQUOR SALE BY DRINK, MILLER, MORGAN, AND CAMDEN COUNTIES, EXPIRATION DATE. — 1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a [first class] county of the first classification having a charter form of government and not containing all or part of a city with a population of over three hundred thousand, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The premises of such an applicant [must] **shall** be located in an area which has been designated as a convention trade area by the governing body of the county and the applicant [must] **shall** meet at least one of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred fifty thousand dollars or more; or

(2) The business is a resort. For purposes of this [section] **subsection**, a "resort" is defined as any establishment having at least sixty rooms for the overnight accommodation of transient guests and having a restaurant located on the premises.

2. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the third classification without a township form of government having a population of more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants, a county of the third classification without a township form of government having a population of more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants or a county of the first classification without a charter form of government with a population of at least thirty-seven thousand inhabitants but not more than thirty-seven thousand one hundred inhabitants, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The applicant shall meet all of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred thousand dollars or more;

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least seventy-five rooms for the overnight accommodation of transient guests, having at least three thousand square feet of meeting space and having a restaurant located on the premises; and

(3) The applicant shall develop, and if granted a special permit shall implement, a plan ensuring that between the hours of 1:30 a.m. and 3:00 a.m. no sale of intoxicating liquor shall be made except to guests with overnight accommodations at the licensee's resort. The plan shall be subject to approval by the supervisor of liquor control and shall provide a practical method for the division of liquor control and other law enforcement agencies to enforce the provisions of subsection 3 of this section.

3. While open between the hours of 1:30 a.m. and 3:00 a.m. under a special permit issued pursuant to subsection 2 of this section, it shall be unlawful for a licensee or any employee of a licensee to sell intoxicating liquor to or permit the consumption of intoxicating liquor by any person except a guest with overnight accommodations at the licensee's resort.

[2.] **4.** An applicant granted a special permit [under] pursuant to this section shall, in addition to all other fees required by this chapter, pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

[3.] **5.** The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any [first class] county **of the first classification** having a charter form of government which does not contain all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.

6. The enactment of subsections 2, 3, and 4 of this section shall terminate January 1, 2007.

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.

311.680. DISORDERLY PLACE, WARNING, PROBATION, SUSPENSION OR REVOCATION OF LICENSE, WHEN, NOTICE — CIVIL PENALTIES — MEET AND CONFER OPPORTUNITY, WHEN. — 1. Whenever it shall be shown, or whenever the supervisor of liquor control has knowledge, that a person licensed hereunder has not at all times kept an orderly place or house, or has violated any of the provisions of this chapter, the supervisor of liquor control may, warn, place on probation on such terms and conditions as the supervisor of liquor control deems appropriate for a period not to exceed twelve months, suspend or revoke the license of that person, but the person shall have ten days' notice of the application to warn, place on probation, suspend or revoke the person's license prior to the order of warning, probation, revocation or suspension issuing.

2. Any wholesaler licensed pursuant to this chapter or chapter 312, RSMo, in lieu of, or in addition to, the warning, probation, suspension or revocation authorized in subsection 1 of this section, may be assessed a civil penalty by the supervisor of liquor control of not less than one hundred dollars or more than twenty-five hundred dollars for each violation.

3. Any solicitor licensed pursuant to this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized in subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of liquor control of not less than one hundred dollars nor more than five thousand dollars for each violation.

4. Any retailer with less than five thousand occupant capacity licensed pursuant to this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized by subsection 1 of this section may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than one thousand dollars for each violation.

5. Any retailer with five thousand or more occupant capacity licensed pursuant to this chapter or chapter 312, RSMo, in lieu of the suspension or revocation authorized by subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than five thousand dollars for each violation.

6. Any aggrieved person may appeal to the administrative hearing commission in accordance with section 311.691.

7. In order to encourage the early resolution of disputes between the supervisor of liquor control and licensees, the supervisor of liquor control, prior to issuing an order of warning, probation, revocation, suspension, or fine, shall provide the licensee with the opportunity to meet or to confer with the supervisor of liquor control, or his or her designee, concerning the alleged violations. At least ten days prior to such meeting or conference, the supervisor shall provide the licensee with notice of the time and place of such meeting or conference, and the supervisor of liquor control shall also provide the licensee with a written description of the specific conduct for which discipline is sought, a citation of the law or rules allegedly violated, and, upon request, copies of any violation report or any other documents which are the basis for such action. Any order of warning, probation, revocation, suspension, or fine shall be effective no sooner than thirty days from the date of such order.

Approved July 11, 2002

SB 840 [HCS SS SCS SB 840]

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 statute of limitations and requires an affidavit be filed in actions against certain professionals.

AN ACT to repeal section 516.097, RSMo, and to enact in lieu thereof one new section relating to statute of repose for certain design professionals.

SECTION

- A. Enacting clause.
516.097. Tort action against architects, engineers or builders of defective improvement to real property must be brought within ten years of completion of improvement, exceptions.

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

SECTION A. ENACTING CLAUSE. — Section 516.097, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 516.097, to read as follows:

516.097. TORT ACTION AGAINST ARCHITECTS, ENGINEERS OR BUILDERS OF DEFECTIVE IMPROVEMENT TO REAL PROPERTY MUST BE BROUGHT WITHIN TEN YEARS OF COMPLETION OF IMPROVEMENT, EXCEPTIONS. — 1. Any action to recover damages for **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property, including any action for contribution or indemnity for damages sustained on account of the defect or unsafe condition, shall be commenced within ten years of the date on which [any] such improvement is completed.

2. This section shall only apply to actions against any person whose sole connection with the improvement is performing or furnishing, in whole or in part, the design, planning or construction, including architectural, engineering or construction services, of the improvement.

3. If any action is commenced against any person specified by subsection 2[, any] **of this section**, such person may, within one year of the date of the filing of such [an] action, notwithstanding the provisions of subsection 1 **of this section**, commence an action or a third party action for contribution or indemnity for damages sustained or claimed in any action because of **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property.

4. This section shall not apply [if]:

(1) **If** an action is barred by another provision of law;

(2) **If** a person conceals any defect or deficiency in the design, planning or construction, including architectural, engineering or construction services, in an improvement for real property, if the defect or deficiency so concealed directly results in the defective or unsafe condition for which the action is brought;

(3) [The] **To limit any** action [is] brought against any owner or possessor of real estate or improvements [thereon] **on such real estate**.

5. The statute of limitation for buildings completed on August 13, 1976, shall begin to run on August 13, 1976, and shall be for the time specified [herein] **in this section**.

6. Notwithstanding subsection 1 of section 516.097, if an occupancy permit is issued, the ten year period shall commence on the date the occupancy permit is issued.

Approved July 12, 2002

SB 856 [SB 856]

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

Establishes new enterprise zones in Wright County and in Carl Junction.

AN ACT to amend chapter 135, RSMo, by adding thereto two new sections relating to enterprise zones.

SECTION

A. Enacting clause.

135.259. Enterprise zone designated for a certain county (Wright County)

135.260. Enterprise zone designated for a certain city (Carl Junction)

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

SECTION A. ENACTING CLAUSE. — Chapter 135, RSMo, is amended by adding thereto two new sections, to be known as sections 135.259 and 135.260, to read as follows:

135.259. ENTERPRISE ZONE DESIGNATED FOR A CERTAIN COUNTY (WRIGHT COUNTY) — In addition to the number of enterprise zones authorized pursuant to the provisions of sections 135.206, 135.210, 135.256 and 135.257, the department of economic development shall designate one such zone for any county of the third classification without a township form of government with a population of less than eighteen thousand and more than seventeen thousand nine hundred. Such enterprise zone designation shall only be made if such area which is to be included in the enterprise zone meets all the requirements of section 135.205.

135.260. ENTERPRISE ZONE DESIGNATED FOR A CERTAIN CITY (CARL JUNCTION) — In addition to the number of enterprise zones authorized pursuant to the provisions of sections 135.206 and 135.210, the department of economic development shall designate one such zone in every city of the fourth classification with greater than five thousand two hundred inhabitants and less than five thousand three hundred inhabitants in every noncharter county of the first classification which contains greater than one hundred four thousand inhabitants and fewer than one hundred five thousand inhabitants. Such enterprise zone shall only be made if such area in the city which is to be included meets all the requirements of section 135.205.

Approved July 11, 2002

SB 859 [SB 859]

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

Exempts dependents of active military personnel from the residency requirement of the A+ Schools program.

AN ACT to repeal section 160.545, RSMo, relating to the A+ schools program, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

160.545. A+ school program established — purpose — rules — variable fund match requirement — waiver of rules and regulations, requirement — reimbursement for higher education costs for students — evaluation.

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

SECTION A. ENACTING CLAUSE. — Section 160.545, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.545, to read as follows:

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

- (1) All students be graduated from school;
-

(2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and

(3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

(1) Establish measurable district-wide performance standards for the goals of the program outlined in subsection 1 of this section; and

(2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

(3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

(4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

4. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June

thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

5. [Within the amount appropriated for the program, in addition to the grants to public schools authorized by subsections 1 to 3 of this section,] **For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 6 of this section.**

6. The commissioner of education shall, by rule and regulation of the state board of education and with the advice of the coordinating board for higher education, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section, **except that students who are active duty military dependents who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision;** and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the state board of education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

[6.] 7. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

Approved July 1, 2002

SB 865 [SB 865]

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 assessment renewal on boll weevil eradication from five years to ten years.

AN ACT to repeal section 263.531, RSMo, relating to boll weevil eradication, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

263.531. Referendum defeated — organization may call other referendums — assessment retention to be subject to vote every ten years.

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

SECTION A. ENACTING CLAUSE. — Section 263.531, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 263.531, to read as follows:

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.

Approved June 12, 2002

SB 874 [SCS SB 874]

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

Relating to school district coordination of special education services with public, private, and not-for-profit agencies.

AN ACT to repeal section 162.700, RSMo, relating to special education, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

162.700. Special educational services, required, when — diagnostic reports, how obtained — special services, ages three and four — remedial reading program, how funded.

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

SECTION A. ENACTING CLAUSE. — Section 162.700, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 162.700, to read as follows:

162.700. SPECIAL EDUCATIONAL SERVICES, REQUIRED, WHEN — DIAGNOSTIC REPORTS, HOW OBTAINED — SPECIAL SERVICES, AGES THREE AND FOUR — REMEDIAL READING PROGRAM, HOW FUNDED. — 1. The board of education of each school district in this state, except school districts which are part of a special school district, and the board of education of each special school district shall provide special educational services for handicapped children three years of age or more residing in the district as required by P.L. 99-457, as codified and as may be amended. Any child, determined to be handicapped, shall be eligible for such services upon reaching his or her third birthday and state school funds shall be apportioned accordingly. This subsection shall apply to each full school year beginning on or after July 1, 1991. In the event that federal funding fails to be appropriated at the authorized level as described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating to services for handicapped children three and four years of age may be delayed until such time as funds are appropriated to meet such level. Each local school district and each special school district shall be responsible to engage in a planning process to design the service delivery system necessary to provide special education and related services for children three and four years of age with handicaps. The planning process may include public, private and private not-for-profit agencies which have provided such services for this population. The school district, or school districts, or special

school district, shall be responsible for designing an efficient service delivery system which uses the present resources of the local community which may be funded by the department of elementary and secondary education or the department of mental health. School districts may coordinate with public, private and private not-for-profit agencies presently in existence. The service delivery system shall be consistent with the requirements of the department of elementary and secondary education to provide appropriate special education services in the least restrictive environment.

2. Every local school district or, if a special district is in operation, every special school district shall obtain current appropriate diagnostic reports for each handicapped child prior to assignment in a special program. These records may be obtained with parental permission from previous medical or psychological evaluation, may be provided by competent personnel of such district or special district, or may be secured by such district from competent and qualified medical, psychological or other professional personnel.

3. Where special districts have been formed to serve handicapped children under the provisions of sections 162.670 to 162.995, such children shall be educated in programs of the special district, except that component districts may provide education programs for handicapped children ages three and four inclusive in accordance with regulations and standards adopted by the state board of education.

4. For the purposes of this act, remedial reading programs are not a special education service as defined by subdivision (4) of section 162.675 but shall be funded in accordance with the provisions of section 162.975.

5. Any and all state costs required to fund special education services for three- and four-year-old children pursuant to this section shall be provided for by a specific, separate appropriation and shall not be funded by a reallocation of money appropriated for the public school foundation program.

6. School districts providing early childhood special education shall give preference when developing an individualized education program for a student who had received services pursuant to Part C of the Individuals With Disabilities Education Act, to continue services with the student's Part C provider, unless this would result in a cost which exceeds the average cost per student in early childhood special education for the district responsible for educating the student. Services provided shall be only those permissible according to Section 619 of the Individuals with Disabilities Education Act.

7. 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 June 12, 2002

SB 884 [SS SCS SB 884]

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

Relating to restrictions on payday lenders.

AN ACT to repeal section 408.500, RSMo, and to enact in lieu thereof three new sections relating to restrictions on payday loans, with penalty provisions.

SECTION

- A. Enacting clause.
- 408.500. Unsecured loans under five hundred dollars, licensure of lenders, interest rates and fees allowed — penalties for violations — cost of collection expenses — notice required, form.
- 408.505. Term of loans, charges permitted, repayment, return check charge.
- 408.506. Report to the general assembly, contents.

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

SECTION A. ENACTING CLAUSE. — Section 408.500, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 408.500, 408.505 and 408.506, to read as follows:

408.500. UNSECURED LOANS UNDER FIVE HUNDRED DOLLARS, LICENSURE OF LENDERS, INTEREST RATES AND FEES ALLOWED — PENALTIES FOR VIOLATIONS — COST OF COLLECTION EXPENSES — NOTICE REQUIRED, FORM. — 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of three hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, RSMo, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

NOTICE:

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the [fifth] **first** renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the

principal amount of the loan by [ten] **not less than five** percent of the original amount of the loan until such loan is paid in full. **However, no loan may be renewed more than six times.**

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

408.505. TERM OF LOANS, CHARGES PERMITTED, REPAYMENT, RETURN CHECK CHARGE.— 1. This section shall apply to:

(1) Unsecured loans made by lenders licensed or who should have been licensed pursuant to section 408.500;

(2) Any person that the Missouri division of finance determines that has entered into a transaction that, in substance, is a disguised loan; and

(3) Any person that the Missouri division of finance determines has engaged in subterfuge for the purpose of avoiding the provisions of this section.

2. All loans made pursuant to this section and section 408.500, shall have a minimum term of fourteen days and a maximum term of thirty-one days, regardless of whether the loan is an original loan or renewed loan.

3. A lender may only charge simple interest and fees in accordance with sections 408.100 and 408.140. No other charges of any nature shall be permitted except as provided by this section, including any charges for cashing the loan proceeds if they are given in check form. However, no borrower shall be required to pay a total amount of accumulated interest and fees in excess of seventy-five percent of the initial loan amount on any single loan authorized pursuant to this section for the entire term of that loan and all renewals authorized by section 408.500 and this section.

4. A loan made pursuant to the provisions of section 408.500 and this section shall be deemed completed and shall not be considered a renewed loan when the lender presents the instrument for payment or the payee redeems the instrument by paying the full amount of the instrument to the lender. Once the payee has completed the loan, the payee may enter into a new loan with a lender.

5. Except as provided in subsection 3 of this section, no loan made pursuant to this section shall be repaid by the proceeds of another loan made by the same lender or any person or entity affiliated with the lender. A lender, person or entity affiliated with the lender, shall not have more than five hundred dollars in loans made pursuant to section 408.500 and this section outstanding to the same borrower at any one time. A lender complies with this subsection if:

(1) The consumer certifies in writing that the consumer does not have any outstanding small loans with the lender which in the aggregate exceeds five hundred dollars, and is not repaying the loan with the proceeds of another loan made by the same lender; and

(2) The lender does not know, or have reason to believe, that the consumer's written certification is false.

6. On a consumer loan transaction where cash is advanced in exchange for a personal check, a return check charge may be charged in the amounts provided by sections 408.653 and 408.654, as applicable.

7. No state or public employee or official, including a judge of any court of this state, shall enforce the provisions of any contract for payment of money subject to this section which violates the provisions of section 408.500 and this section.

8. A person does not commit the crime of passing a bad check pursuant to section 570.120, RSMo, if at the time the payee accepts a check or similar sight order for the payment of money, he or she does so with the understanding that the payee will not present it for payment until later and the payee knows or has reason to believe that there are insufficient funds on deposit with the drawee at the time of acceptance. However, this section shall not apply if the person's account on which the instrument was written was closed by the consumer before the agreed upon date of negotiation or the consumer has stopped payment on the check.

9. A lender shall not use a device or agreement that would have the effect of charging or collecting more fees, charges, or interest than allowed by this section, including, but not limited to:

(1) Entering into a different type of transaction;
(2) Entering into a sales lease back arrangement;
(3) Catalog sales;
(4) Entering into any other transaction with the consumer that is designed to evade the applicability of this section.

10. The provisions of this section shall only apply to entities subject to the provisions of section 408.500 and this section.

408.506. REPORT TO THE GENERAL ASSEMBLY, CONTENTS. — The division of finance shall report to the general assembly beginning on January 1, 2003, and on the first day of January every other year thereafter, the number of licenses issued by the director pursuant to section 408.500, the number of loans issued by said lenders, the average face value of such loans, the average number of times said loans are renewed, the number of said loans that are defaulted on an annual basis, and the number and nature of complaints made to the director by customers on such licensees and the disposition of such complaints. Such report shall also include the average interest and fees charged and collected by lenders on such loans, and a comparison of such with similar small loan lenders from adjoining states.

Approved June 27, 2002

SB 891 [SB 891]

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

Corrects a technical error relating to transportation development districts.

AN ACT to repeal section 238.207, RSMo, relating to transportation development districts, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
238.207. Creation of district, procedures — district to be contiguous, size requirements — petition, contents.

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

SECTION A. ENACTING CLAUSE. — Section 238.207, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 238.207, to read as follows:

238.207. CREATION OF DISTRICT, PROCEDURES — DISTRICT TO BE CONTIGUOUS, SIZE REQUIREMENTS — PETITION, CONTENTS. — 1. Whenever the creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed district[, except public streets,] may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property, **except public streets**, located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets shall be considered contiguous.

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of a local transportation authority acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(4) A general description of each project proposed to be undertaken by that district, including a description of the approximate location of each project;

(5) The name of the proposed district;

(6) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;

(7) A statement that the terms of office of initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

(8) If the petition was filed by registered voters or by a governing body, a request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop a specified project or projects;

(9) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(10) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

Approved June 27, 2002

SB 892 [HCS SCS SB 892]

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 additional services to be pre-purchased from cemeteries.

AN ACT to repeal sections 214.270 and 214.387, RSMo, and to enact in lieu thereof two new sections relating to cemeteries.

SECTION

- A. Enacting clause.
- 214.270. Definitions.
- 214.387. Monuments, markers or memorial funds to be deposited in segregated account—authorized withdrawals—commingling of funds prohibited—deferment of performance, when—trusteed accounts, procedure for withdrawals.

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

SECTION A. ENACTING CLAUSE. — Sections 214.270 and 214.387, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 214.270 and 214.387, to read as follows:

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

(4) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

(5) "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

(6) "Cemetery service", those services performed by a cemetery owner or operator licensed pursuant to this chapter as an endowed care cemetery including setting a monument, setting a tent, excavating a grave, or setting a vault;

[(6)] (7) "Columbarium", a building or structure for the inurnment of cremated human remains;

[(7)] **(8)** "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

[(8)] **(9)** "Department", department of economic development;

[(9)] **(10)** "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

[(10)] **(11)** "Director", director of the division of professional registration;

[(11)] **(12)** "Division", division of professional registration;

[(12)] **(13)** "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

[(13)] **(14)** "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

[(14)] **(15)** "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

[(15)] **(16)** "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

[(16)] **(17)** "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

[(17)] **(18)** "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

[(18)] **(19)** "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

[(19)] **(20)** "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

[(20)] **(21)** "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

[(21)] **(22)** "Inurement", placing an urn containing cremated remains in a burial space;

[(22)] **(23)** "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

[(23)] **(24)** "Mausoleum", a structure or building for the entombment of human remains in crypts;

[(24)] **(25)** "Niche", a space in a columbarium used or intended to be used for inurement of cremated remains;

[(25)] **(26)** "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care fund has been established in accordance with sections 214.270 to 214.410;

[(26)] **(27)** "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

[(27)] **(28)** "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

[(28)] (29) "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

[(29)] (30) "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

[(30)] (31) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

[(31)] (32) "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

[(32)] (33) "Trustee of an endowed care fund", the separate legal entity appointed as trustee of an endowed care fund.

214.387. MONUMENTS, MARKERS OR MEMORIAL FUNDS TO BE DEPOSITED IN SEGREGATED ACCOUNT — AUTHORIZED WITHDRAWALS — COMMINGLING OF FUNDS PROHIBITED — DEFERMENT OF PERFORMANCE, WHEN — TRUSTEED ACCOUNTS, PROCEDURE FOR WITHDRAWALS. — 1. Upon written instructions from the purchaser of a monument, marker or memorial, a cemetery may defer delivery of such property to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the property is paid in full, deposits from its own funds an amount equal to one hundred ten percent of such property's wholesale cost into a segregated account. Funds deposited in a segregated account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the property is made or the contract for the purchase of such property is canceled. No withdrawals may be made from the cemetery operator's segregated account established pursuant to this section and section 214.385 except as provided herein. The cemetery operator shall not commingle any other of its funds with the deposits made to the segregated account. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

2. If at the end of a calendar year the market value of the cemetery operator's segregated account exceeds the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator may withdraw from the segregated account all realized income earned by such account. If at the end of a calendar year the market value of the cemetery operator's segregated account is less than the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator shall only withdraw the realized income in excess of (i) the segregated account's market value at year end, plus (ii) all realized income accrued to the segregated account minus (iii) the wholesale cost of all paid-in-full property which has not been delivered.

3. Upon the delivery of a monument, marker or memorial sold by the cemetery or its agent, or the cancellation of the contract for the purchase of such property, the cemetery operator may withdraw from the segregated account an amount equal to (i) the market value of the segregated account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the delivered property's deposit in the account bears to the aggregate deposit of all property which is paid in full but not delivered. The segregated account may be inspected or audited by the division.

4. Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to forty percent of the published retail price into a trustee account. Funds deposited in a trustee account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trustee account established pursuant

to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

5. Upon the delivery of the internment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trusteed account an amount equal to (i) the market value of the trusteed account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trusteed account may be inspected or audited by the division.

6. The provisions of this section shall apply to all agreements entered into after August 28, 2002.

Approved July 10, 2002

SB 895 [CCS HS HCS SB 895]

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

Amends various provisions related to financial institutions.

AN ACT to repeal sections 30.260, 139.235, 143.081, 148.020, 148.610, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 351.120, 351.140, 351.145, 351.150, 351.155, 355.856, 356.211, 361.700, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 385.050, 400.9-102, 400.9-109, 400.9-303, 400.9-317, 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, 400.9-710, 407.432, 408.083, 408.140, 408.170, 408.320, 408.510, 408.556, 408.557, 409.204, 409.402, 417.210, 454.507, 454.516, 525.070, 570.130, 575.060, 700.350, 700.355, 700.360, 700.365, 700.370, and 700.380, RSMo, sections 375.018 and 375.065 as enacted by house committee substitute for senate substitute for senate bill no. 193, ninety-first general assembly, first regular session, section 375.018 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 709, eighty-seventh general assembly, first regular session, and section 375.065 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 896, ninetieth general assembly, second regular session, and to enact in lieu thereof eighty-five new sections relating to financial services, with penalty provisions and an effective date for certain sections.

SECTION

- A. Enacting clause.
- 30.260. Investment policy required — time and demand deposits — investments — interest rates.
- 139.235. Passing bad checks in payment of taxes, penalty — cashier's checks, certified checks, or money orders required, when.
- 143.081. Credit for income tax paid to another state.
- 148.020. Definitions.
- 148.610. Definitions.
- 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.

- 301.600. 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.
- 351.120. Annual corporate registration report required, when — change in registered office or agent to be filed with annual report.
- 351.140. Registration, form — subject to false declaration penalties — notice on form required.
- 351.145. Notice provided for annual corporate registration report.
- 351.150. Failure to comply not excused for lack of notice.
- 351.155. Duplicate forms, when furnished.
- 355.856. Annual corporate registration report.
- 356.211. Annual registration report — filed when, contents — form — fee — penalties for failure to file or making false declarations.
- 361.700. Sale of checks law, how cited — definitions.
- 362.020. Articles of agreement — contents.
- 362.106. Additional powers.
- 362.117. State bank may become trust company — procedure.
- 362.170. Unimpaired capital, defined — restrictions on loans, and total liability to any one person.
- 362.245. Board of directors, qualifications — cumulative voting in electing director permitted when.
- 362.270. Organizational meeting of directors.
- 362.275. Monthly meeting of board — review of certain transactions — ratification of poll.
- 362.335. Officers and employees — limitation on powers — appointment of president not required — chief executive officer not required to be member of board, when.
- 364.120. Interest or discount, amount allowed, computation — prepayment of obligation — refund credit, calculation.
- 365.100. Late payment charges, interest on delinquent payments, attorney fees — dishonored or insufficient funds fee.
- 365.140. Prepayment of debt under retail installment contract — refund, how computed.
- 367.518. Title loan agreements, contents, form.
- 375.018. Issuance of producer's license, duration — lines of authority — biennial renewal fee for agents, due when — reinstatement of license, when — failure to comply, effect.
- 375.018. Issuance of producer's license, duration — lines of authority — biennial renewal fee for agents, due when — reinstatement of license, when — failure to comply, effect.
- 375.065. Credit insurance producer license — organizational credit entity license — application — fee — rules — organization credit agency license issued, procedure, rules — effective date, termination date.
- 375.065. Credit insurance producer license — organizational credit entity license — application — fee — rules — organization credit agency license issued, procedure, rules — effective date, termination date.
- 375.919. Use of language other than English permitted, when, disclosures — contractual relationship required for applicability of certain rules — misrepresentation, penalty.
- 385.050. Revision of premium schedules, procedure for — refunds paid, when — limit on charge for credit life.
- 400.9-102. Definitions and index of definitions.
- 400.9-109. Scope.
- 400.9-303. Law governing perfection and priority of security interests in goods covered by certificate of title.
- 400.9-317. Interests that take priority over or take free of security interest or agricultural lien.
- 400.9-323. Future advances.
- 400.9-406. Discharge of account debtor — notification of assignment — identification and proof of assignment — restrictions on assignment of accounts, chattel paper, payment intangibles and promissory notes ineffective.
- 400.9-407. Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.

- 400.9-408. Restrictions on assignment of promissory notes, health care insurance receivables, and certain general intangibles ineffective.
- 400.9-409. Restrictions on assignment of letter-of-credit rights ineffective.
- 400.9-504. Indication of collateral.
- 400.9-509. Persons entitled to file a record.
- 400.9-513. Termination statement.
- 400.9-525. Fees.
- 400.9-602. Waiver of variance of rights and duties.
- 400.9-608. Application of proceeds of collection or enforcement — liability for deficiency and right to surplus.
- 400.9-611. Notification before disposition of collateral.
- 400.9-613. Contents and form of notification before disposition of collateral: general.
- 400.9-615. Application of proceeds of disposition — liability for deficiency and right to surplus.
- 400.9-625. Remedies for secured party's failure to comply with article.
- 400.9-710. Local filing office to maintain former article 9 records.
- 407.432. Definitions.
- 407.433. Protection of credit card and debit card account numbers, prohibited actions, penalty, exceptions — effective date, applicability.
- 408.083. Credit contracts, prepayment before maturity, computation of interest.
- 408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
- 408.170. Contracts paid in full before due date — recomputations of interest — refund defined.
- 408.320. Buyer may pay retail time contract debt before maturity — refund of charges.
- 408.510. Licensure of consumer installment lenders — interest and fees allowed.
- 408.556. Actions arising from default, contents of petition — default judgment requires sworn testimony — recovery of unpaid balances.
- 408.557. Notice required before deficiency action may be commenced.
- 409.204. Denial, revocation, suspension, cancellation and withdrawal of registration.
- 409.402. Exemptions.
- 417.210. Registration, when and how — reregistration.
- 454.507. Financial institutions, division may request information, when, fees — definitions — data match system — notice of lien.
- 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.
- 525.070. Garnishee may discharge himself, how.
- 541.155. Fraudulent use of a credit device, where prosecuted.
- 570.130. Fraudulent use of a credit device or debit device — penalty.
- 575.060. False declarations.
- 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.
- B. Effective date.
- C. Effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 30.260, 139.235, 143.081, 148.020, 148.610, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 351.120, 351.140, 351.145, 351.150, 351.155, 355.856, 356.211, 361.700, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 385.050, 400.9-102, 400.9-109, 400.9-303, 400.9-317, 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, 400.9-710, 407.432, 408.083, 408.140, 408.170, 408.320, 408.510, 408.556, 408.557, 409.204, 409.402, 417.210, 454.507, 454.516, 525.070, 570.130, 575.060, 700.350, 700.355, 700.360, 700.365, 700.370, and 700.380, RSMo, sections 375.018 and 375.065 as enacted by house committee substitute for senate substitute for senate bill no. 193, ninety-first general assembly, first regular session, section 375.018 as enacted

by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 709, eighty-seventh general assembly, first regular session, and section 375.065 as enacted by conference committee substitute for house committee substitute for senate bill no. 896, ninetieth general assembly, second regular session, are repealed and eighty-five new sections enacted in lieu thereof, to be known as sections 30.260, 139.235, 143.081, 148.020, 148.610, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 351.120, 351.140, 351.145, 351.150, 351.155, 355.856, 356.211, 361.700, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 375.018, 375.065, 375.919, 385.050, 400.9-102, 400.9-109, 400.9-303, 400.9-317, 400.9-323, 400.9-406, 400.9-407, 400.9-408, 400.9-409, 400.9-504, 400.9-509, 400.9-513, 400.9-525, 400.9-602, 400.9-608, 400.9-611, 400.9-613, 400.9-615, 400.9-625, 400.9-710, 407.432, 407.433, 408.083, 408.140, 408.170, 408.320, 408.510, 408.556, 408.557, 409.204, 409.402, 417.210, 454.507, 454.516, 525.070, 541.155, 570.130, 575.060, 700.350, 700.355, 700.360, 700.365, 700.370, and 700.380, to read as follows:

30.260. INVESTMENT POLICY REQUIRED — TIME AND DEMAND DEPOSITS — INVESTMENTS—INTEREST RATES. — 1. The state treasurer shall prepare, maintain and adhere to a written investment policy which shall include an asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment authorized by section 15, article IV of the Missouri Constitution. The state treasurer shall present a copy of such policy to the governor, commissioner of administration, state auditor and general assembly at the commencement of each regular session of the general assembly or at any time the written investment policy is amended.

2. The state treasurer shall determine by the exercise of the treasurer's best judgment the amount of state moneys that are not needed for current operating expenses of the state government and shall keep on demand deposit in banking institutions in this state selected by the treasurer and approved by the governor and state auditor the amount of state moneys which the treasurer has so determined are needed for current operating expenses of the state government and disburse the same as authorized by law.

3. Within the parameters of the state treasurer's written investment policy, the state treasurer shall place the state moneys which the treasurer has determined are not needed for current operations of the state government on time deposit drawing interest in banking institutions in this state selected by the treasurer and approved by the governor and the state auditor, or place them outright or, if applicable, by repurchase agreement in obligations described in section 15, article IV, Constitution of Missouri, as the treasurer in the exercise of the treasurer's best judgment determines to be in the best overall interest of the people of the state of Missouri, giving due consideration to:

- (1) The preservation of such state moneys;
- (2) The liquidity needs of the state;
- (3) The comparative yield to be derived therefrom;
- (4) The effect upon the economy and welfare of the people of Missouri of the removal or withholding from banking institutions in the state of all or some such state moneys and investing same in obligations authorized in section 15, article IV of the Missouri Constitution; and
- (5) All other factors which to the treasurer as a prudent state treasurer seem to be relevant to the general public welfare in the light of the circumstances at the time prevailing. The state treasurer may also place state moneys which are determined not needed for current operations of the state government in linked deposits as provided in sections 30.750 to 30.767.

4. Except for state moneys deposited in linked deposits as provided in sections 30.750 to 30.767, the rate of interest payable by all banking institutions on time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming

payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent; except that the rate shall never exceed the maximum rate of interest which by federal law or regulation a bank which is a member of the Federal Reserve System may from time to time pay on a time deposit of the same size and maturity.

5. Within the parameters of the state treasurer's written investment policy, the state treasurer may subscribe for or purchase outright or by repurchase agreement investments of the character described in subsection 3 of this section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the best for investment of state moneys at the time and in payment therefor may withdraw moneys from any bank account, demand or time, maintained by the treasurer without having any supporting warrant of the commissioner of administration. The state treasurer may bid on subscriptions for such obligations in accordance with the treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment of state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so acquired by the treasurer until its maturity or prior thereto may sell the same outright or by reverse repurchase agreement provided the state's security interest in the underlying security is perfected or temporarily exchange such obligation for **cash** or other authorized securities of at least equal market value with no maturity more than one year beyond the maturity of any of the traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery of all such obligations at any time acquired by the treasurer.

6. As used in this chapter, except as more particularly specified in section 30.270, obligations of the United States shall include securities of the United States Treasury, and United States agencies or instrumentalities as described in section 15, article IV, Constitution of Missouri. The word "temporarily" as used in this section shall mean no more than six months.

139.235. PASSING BAD CHECKS IN PAYMENT OF TAXES, PENALTY — CASHIER'S CHECKS, CERTIFIED CHECKS, OR MONEY ORDERS REQUIRED, WHEN. — Any person required to pay any tax who issues or passes a check, or other similar sight order, which is returned to the department of revenue, **county collector, or treasurer ex officio collector** because the account upon which the check or order was drawn was closed or did not have sufficient funds at the time of presentation for payment by the department of revenue, **county collector, or treasurer ex officio collector** to meet the face amount of the check or order, may, unless there be good cause shown, be assessed **by the department of revenue**, in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order, whichever amount is greater, but in no event shall such penalty imposed exceed one hundred dollars. **Such person may also be assessed by the county collector or treasurer ex officio collector, in addition to any other penalty or interest that may be owed, a penalty not to exceed twenty-five dollars.** The department of revenue, **county collector, or treasurer ex officio collector** may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the department of revenue, **county collector, or treasurer ex officio collector** unless the remittance is in the form of a cashier's check, certified check, or money order.

143.081. CREDIT FOR INCOME TAX PAID TO ANOTHER STATE. — 1. A resident individual, resident estate, and resident trust shall be allowed a credit against the tax otherwise due [under] **pursuant to** sections 143.005 to 143.998 for the amount of any income tax imposed

[on him] for the taxable year by another state of the United States (or a political subdivision thereof) or the District of Columbia on income derived from sources therein and which is also subject to tax [under] **pursuant to** sections 143.005 to 143.998. Solely for purposes of this subsection, the phrase "income tax imposed" shall include any income tax credit allowed by such other state or the District of Columbia the basis for which is a charitable contribution which qualifies as a charitable deduction from income pursuant to the Internal Revenue Code of 1986, as amended if the other state or the District of Columbia authorizes a reciprocal benefit for residents of this state.

2. The credit provided [under] **pursuant to** this section shall not exceed an amount which bears the same ratio to the tax otherwise due [under] **pursuant to** sections 143.005 to 143.998 as the amount of the taxpayer's Missouri adjusted gross income derived from sources in the other taxing jurisdiction bears to [his] **the taxpayer's** Missouri adjusted gross income derived from all sources. In applying the limitation of the previous sentence to an estate or trust, Missouri taxable income shall be substituted for Missouri adjusted gross income. If the tax of more than one other taxing jurisdiction is imposed on the same item of income, the credit shall not exceed the limitation that would result if the taxes of all the other jurisdictions applicable to the item were deemed to be of a single jurisdiction.

3. For the purposes of this section, in the case of an S corporation, each resident S shareholder shall be considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S corporation to a state which does not measure the income of shareholders on an S corporation by reference to the income of the S corporation or where a composite return and composite payments are made in such state on behalf of the S shareholders by the S corporation.

4. For purposes of subsection 3 of this section, in the case of an S corporation that is a bank chartered by a state, the office of thrift supervision, or the comptroller of currency, each Missouri resident S shareholder of such out of state bank shall qualify for the shareholder's pro rata share of any net tax paid, including a bank franchise tax based on the income of the bank, by such S corporation where bank payment of taxes are made in such state on behalf of the S shareholders by the S bank to the extent of the tax paid.

148.020. DEFINITIONS. — For the purposes of this law the following terms shall have the following meanings:

(1) The term "banking institution" means every bank and every trust company organized under any general or special law of this state and every national banking association located in this state and any branch or office physically located in this state of any commercial bank or trust company;

(2) The term "director" means the director of revenue in charge of the state department of revenue;

(3) The term "director of finance" means the chief officer of the present state division of finance, or of such agency of the state of Missouri as may hereafter have by law the supervisory duties of the present state division of finance pertaining to banks and trust companies incorporated under the laws of this state;

(4) The term "income period" means the calendar year or relevant portion thereof next preceding the taxable year;

(5) **The term "lease or rental of tangible personal property" means the lease or rental of tangible personal property under the exclusive control of the lessee and neither attached to nor functionally a part of a taxpayer's building or buildings or any part thereof;**

(6) The term "taxable year" means the calendar year in which the tax is payable;

[(6)] (7) The term "taxpayer" means any banking institution subject to any tax imposed by this law.

148.610. DEFINITIONS. — For the purposes of sections 148.610 to 148.700, providing for the taxation of credit unions and savings and loan associations, the following terms mean:

(1) "Association", a savings and loan association or building and loan association organized under the laws of this state, any other state, or under the laws of the United States and having an office in this state;

(2) "Credit union", a credit union organized under section 370.010, RSMo, of the laws of this state or the United States and located within this state, the principal business of which, during the taxable year, consisted of receiving the savings of members and making loans to members;

(3) "Director", the director of revenue;

(4) "Income period", the calendar year or relevant portion thereof next preceding the taxable year;

(5) **The term "lease or rental of tangible personal property" means the lease or rental of tangible personal property under the exclusive control of the lessee and neither attached to nor functionally a part of a taxpayer's building or buildings or any part thereof;**

(6) "Taxable in another state", a taxpayer is taxable in another state if, by reason of business activity in another state, it is subject to and did pay one of the types of taxes specified: a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax. The taxpayer must carry on business activities in another state. If the taxpayer voluntarily files and pays one or more of such taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization or for the privilege of doing business in that state, but does not actually engage in business activities in that state, and does not have business facilities in that state or does actually engage in some activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's activities with such state, the taxpayer is not taxable in another state;

[(6)] (7) "Taxable year", the calendar year in which the tax is payable;

[(7)] (8) "Taxpayer", any credit union or savings and loan association subject to any tax imposed by sections 148.600 to 148.710.

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.

301.600. 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 received 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] **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 or 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, consummated, 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.

351.120. ANNUAL CORPORATE REGISTRATION REPORT REQUIRED, WHEN — CHANGE IN REGISTERED OFFICE OR AGENT TO BE FILED WITH ANNUAL REPORT. — **1.** Every corporation organized pursuant to the laws of this state, including corporations organized pursuant to or subject to this chapter, and every foreign corporation licensed to do business in this state, whether such license shall have been issued pursuant to this chapter or not, other than corporations exempted from taxation by the laws of this state, shall file an annual corporation registration report [stating its].

2. The annual corporate registration report shall state the corporate name, the name of its registered agent and such agent's Missouri address, giving street and number, or building and number, or both, as the case may require, the name and correct business or residence address of its officers and directors, and the mailing address of the corporation's principal place of business or corporate headquarters.

3. The annual [corporation] **corporate** registration report shall be due on the date that the corporation's franchise tax report is due as required in section 147.020, RSMo, or within thirty days of the date of incorporation of the corporation[; but]. Any extension of time for filing the franchise tax report shall not apply to the due date of the annual corporation registration report. Any corporation that is not required to file a franchise tax report shall still be required to file an annual corporation registration report.

4. In the event of any change in the names and addresses of the officers and directors set forth in an annual registration report following the required date of its filing and the date of the

next such required report, the corporation may correct such information by filing a certificate of correction pursuant to section 351.049.

5. A corporation may change the corporation's registered office or registered agent with the filing of the corporation's annual registration report. To change the corporation's registered agent with the filing of the annual registration report, the corporation must include the new registered agent's written consent to the appointment as registered agent and a written consent stating that such change in registered agents was authorized by resolution duly adopted by the board of directors. The written consent must be signed by the new registered agent and must include such agent's address. If the annual corporate registration report is not completed correctly, the secretary of state may reject the filing of such report.

6. A corporation's annual registration report must be filed in a format as prescribed by the secretary of state.

351.140. REGISTRATION, FORM — SUBJECT TO FALSE DECLARATION PENALTIES — NOTICE ON FORM REQUIRED. — Each registration required by section 351.120 shall be on a form to be supplied by the secretary of state and shall be [signed] **executed** subject to the penalties of making a false declaration under section 575.060, RSMo, by the president, a vice president, the secretary, an assistant secretary, the treasurer or an assistant treasurer of the corporation. Whenever any corporation is in the hands of an assignee or receiver, it shall be the duty of such assignee or receiver, or one of them, if there be more than one, to register such corporation and otherwise comply with the requirements of this chapter. The forms shall bear a notice stating that false statements made therein are punishable under section 575.060, RSMo.

351.145. NOTICE PROVIDED FOR ANNUAL CORPORATE REGISTRATION REPORT. — It shall be the duty of the secretary of state to [provide blank corporate registration forms] **send notice that the annual corporate registration report is due** to each corporation in this state required to register[, addressed]. **The notice shall be directed** to its registered office as disclosed originally by its articles of incorporation or by its application for a certificate of authority to transact business in this state and thereafter as disclosed by its registration for the year preceding, as provided by law[, or addressed to the president or a vice president at the principal place of business or corporate headquarters of the corporation as the same appears in the records of the secretary of state]. **The secretary of state may provide a form of the annual corporate registration report for filing in a format and medium prescribed by the secretary of state.**

351.150. FAILURE TO COMPLY NOT EXCUSED FOR LACK OF NOTICE. — No corporation shall be excused for its failure to comply with the provisions of this chapter by reason of failure to receive the [blanks] **notice** in section 351.145 required to be [mailed] **given** by the secretary of state.

351.155. DUPLICATE FORMS, WHEN FURNISHED. — It shall be the duty of the secretary of state to furnish [duplicate blanks] **forms of annual corporate registration reports** to any corporation upon request [of its president, or secretary] **to any representative of the corporation**, but no such [duplicate blanks] **form of the annual corporate registration report** shall be furnished unless the name of the corporation for which they are desired shall accompany the request.

355.856. ANNUAL CORPORATE REGISTRATION REPORT. — 1. Each domestic corporation, and each foreign corporation authorized **pursuant to this chapter** to transact business in this state, shall [deliver to] **file with** the secretary of state an annual **corporate registration** report on a form prescribed and furnished by the secretary of state that sets forth:

- (1) The name of the corporation and the state or country under whose law it is incorporated;

(2) The address of its registered office and the name of its registered agent at the office in this state;

(3) The address of its principal office;

(4) The names and business or residence addresses of its directors and principal officers;

(5) A brief description of the nature of its activities;

(6) Whether or not it has members;

(7) If it is a domestic corporation, whether it is a public benefit or mutual benefit corporation; and

(8) If it is a foreign corporation, whether it would be a public benefit or mutual benefit corporation had it been incorporated in this state.

2. The information in the annual **corporate registration** report must be current on the date the annual **corporate registration** report is executed on behalf of the corporation.

3. The first annual **corporate registration** report must be delivered to the secretary of state no later than August thirty-first of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual **corporate registration** reports must be delivered to the secretary of state no later than August thirty-first of the following calendar years. If an annual **corporate registration** report is not filed within the time limits prescribed by this section, the secretary of state shall not accept the report unless it is accompanied by a fifteen-dollar fee. **Failure to file the annual registration report as required by this section will result in the administrative dissolution of the corporation as set forth in section 355.706.**

4. If an annual **corporate registration** report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty days after the effective date of notice, it is deemed to be timely filed.

5. A corporation may change the corporation's registered office or registered agent with the filing of the corporation's annual registration report. To change the corporation's registered agent with the filing of the annual registration report, the corporation must include the new registered agent's written consent to the appointment as registered agent and a written consent stating that such change in registered agents was authorized by resolution duly adopted by the board of directors. The written consent must be signed by the new registered agent and must include such agent's address. If the annual corporate registration report is not completed correctly, the secretary of state may reject the filing of such report.

6. A corporation's annual registration report must be filed in a format and medium prescribed by the secretary of state.

356.211. ANNUAL REGISTRATION REPORT — FILED WHEN, CONTENTS — FORM — FEE — PENALTIES FOR FAILURE TO FILE OR MAKING FALSE DECLARATIONS. — 1. Each professional corporation and each foreign professional corporation shall file[, in duplicate,] with the secretary of state an annual corporation registration report [simultaneously with] **at the time the corporation's franchise tax report [setting] is due. Any extension of time for filing the franchise tax report shall not apply to the due date of the annual corporation registration report. Any corporation that is not required to file a franchise tax report shall still be required to file an annual corporation registration report. The corporate registration report shall set forth the following information:**

(1) The names and residence addresses of all officers, directors and shareholders of that professional corporation as of the date of the report;

(2) A statement that each officer, director and shareholder is or is not a qualified person as defined in sections 356.011 to 356.261, and setting forth the date on which any shares of the

professional corporation were no longer owned by a qualified person, and any subsequent disposition thereof;

(3) A statement as to whether or not suit has been instituted to fix the fair value of any shares not owned by a qualified person, and if so, the date on which and the court in which the same was filed.

2. The report shall be made on a form to be prescribed and furnished by the secretary of state, and shall be [signed] **executed** by the president or vice president, subject to the penalties of making a false declaration under section 575.060, RSMo. The form shall bear a notice stating that false statements made therein are punishable under section 575.060, RSMo. A reasonable filing fee to be set by the secretary of state shall be paid with the filing of each report, and no other fees shall be charged therefor; except that, penalty and interest fees may be imposed by the secretary of state for late filings. The report shall be filed subject to the time requirements of section 351.120, RSMo. [The duplicate original copy of the annual report shall be forwarded to each licensing authority that regulates the professional services for which the corporation is organized to practice.]

3. If a professional corporation or foreign professional corporation shall fail to file a report qualifying with the provisions of this section when such a filing is due, then the corporation shall be subject to the provisions of chapter 351, RSMo, that are applicable to a corporation that has failed to timely file the annual report required to be filed under chapter 351, RSMo.

361.700. SALE OF CHECKS LAW, HOW CITED—DEFINITIONS. — 1. Sections 361.700 to 361.727 shall be known and may be cited as the "Sale of Checks Law".

2. For the purposes of sections 361.700 to 361.727, the following terms mean:

(1) "Check", any instrument for the transmission or payment of money **and shall also include any electronic means of transmitting or paying money;**

(2) "Director", the director of the division of finance;

(3) "Licensee", any person duly licensed by the director pursuant to sections 361.700 to 361.727;

(4) "Person", any individual, partnership, association, trust or corporation.

362.020. ARTICLES OF AGREEMENT — CONTENTS. — 1. The articles of agreement mentioned in this chapter shall set out:

(1) The corporate name of the proposed corporation. The corporate name shall not be a name, or an imitation of a name, used within the preceding fifty years as a corporate title of a bank or trust company incorporated in this state;

(2) The name of the city or town and county in this state in which the corporation is to be located;

(3) The amount of the capital stock of the corporation, the number of shares into which it is divided, and the par value thereof; that the same has been subscribed in good faith and all thereof actually paid up in lawful money of the United States and is in the custody of the persons named as the first board of directors or managers;

(4) The names and places of residences of the several shareholders and number of shares subscribed by each;

(5) The number and the names of the first directors;

(6) The purposes for which the corporation is formed;

(7) Any provisions relating to the preemptive rights of a shareholder as provided in section 351.305, RSMo.

2. The articles of agreement may designate the number of directors necessary to constitute a quorum, and may provide for the number of years the corporation is to continue, or may provide that the existence of the corporation shall continue until the corporation shall be dissolved by consent of the stockholders or by proceedings instituted by the state under any statute now in force or hereafter enacted.

362.106. ADDITIONAL POWERS. — In addition to the powers authorized by section 362.105:

(1) A bank or trust company may exercise all powers necessary, proper or convenient to effect any of the purposes for which the bank or trust company has been formed and any powers incidental to the business of banking;

(2) A bank or trust company may offer any direct and indirect benefits to a bank customer for the purpose of attracting deposits or making loans, provided said benefit is not otherwise prohibited by law, and the income or expense of such activity is nominal;

(3) Notwithstanding any other law to the contrary, every bank or trust company created under the laws of this state may, for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute, acquire and hold the voting stock of one or more corporations the activities of which are managing or owning agricultural property, **owning and leasing governmental structures except as limited by other law**, subdividing and developing real property and building residential housing or commercial improvements on such property, and owning, renting, leasing, managing, operating for income and selling such property, provided that, the total of all investments, loans and guarantees made pursuant to the authority of this subdivision shall not exceed five percent of the total assets of the bank or trust company as shown on the next preceding published report of such bank or trust company to the director of finance, unless the director of the division of finance approves a higher percentage by regulation, but in no event shall such percentage exceed that allowed national banks by the appropriate regulatory authority, and, in addition to the investments permitted by this subdivision, a bank or trust company may extend credit, not to exceed the lending limits of section 362.170, to each of the corporations in which it has invested. No provision of this section authorizes a bank or trust company to own or operate, directly or through a subsidiary company, a real estate brokerage company;

(4) Notwithstanding any other law to the contrary except for bank regulatory powers in chapter 361, RSMo, powers incidental to the business of banking shall include the authority of every Missouri bank, for a fee or other consideration, and upon complying with any applicable licensing and registration law, to conduct any activity that national banks are expressly authorized by federal law to conduct, if such Missouri bank meets the prescribed standards, provided that powers conferred by this subdivision:

(a) Shall always be subject to the same limitations applicable to a national bank for conducting the activity;

(b) Shall be subject to applicable Missouri insurance law;

(c) Shall be subject to applicable Missouri licensing and registration law for the activity;

(d) Shall be subject to the same treatment prescribed by federal law; and any enabling federal law declared invalid by a court of competent jurisdiction or by the responsible federal chartering agency shall be invalid for the purposes of this subdivision; and

(e) May be exercised by a Missouri bank after that institution has notified the director of its intention to exercise such specific power at the close of the notice period and the director, in response, has made a determination that the proposed activity is not an unsafe or unsound practice and such institution meets the prescribed standards required for the activity permitted national banks in the interpretive letter. The director may either take no action or issue an interpretive letter to the institution more specifically describing the activity permitted, and any limitations on such activity. The notice provided by the institution requesting such activity shall include copies of the specific law authorizing the power for national banks, and documentation indicating that such institution meets the prescribed standards. The notice period shall be thirty days but the director may extend it for an additional sixty days. After a determination has been made authorizing any activity pursuant to this subdivision, any Missouri bank may exercise such power as provided in subdivision (5) of this section without giving notice;

(5) When a determination is made pursuant to paragraph (e) of subdivision (4) of this section, the director shall issue a public interpretive letter or statement of no action regarding

the specific power authorized pursuant to subdivision (4) of this section; such interpretative letters and statements of no action shall be made with the name of the specific institution and related identifying facts deleted. Such interpretative letters and statements of no action shall be published on the division of finance public Internet web site, and filed with the office of the secretary of state for ten days prior to effectiveness. Any other Missouri bank may exercise any power approved by interpretative letter or statement of no action of the director pursuant to this subdivision; provided, the institution meets the requirements of the interpretative letter or statement of no action and the prescribed standards required for the activity permitted national banks in the interpretive letter. Such Missouri bank shall not be required to give the notice pursuant to paragraph (e) of subdivision (4) of this section. For the purposes of this subdivision and subdivision (4) of this section, "activity" shall mean the offering of any product or service or the conducting of any other activity; "federal law" shall mean any federal statute or regulation or an interpretive letter issued by the Office of the Comptroller of the Currency; "Missouri bank" shall mean any bank or trust company created pursuant to the laws of this state.

362.117. STATE BANK MAY BECOME TRUST COMPANY — PROCEDURE. — 1. Any bank may become a trust company with all the powers and subject to all the obligations and duties of trust companies organized under the provisions of this chapter.

2. A bank desiring to become a trust company shall proceed in the following manner:

(1) It shall call a meeting of its stockholders and shall give notice thereof as provided in section 362.044;

(2) At the meeting so called the stockholders of the bank may, by a vote of at least two-thirds of the entire capital stock issued, outstanding and entitled to vote, direct that the bank shall be transformed into a trust company. In the event that such action is taken by the prescribed vote, a resolution may be adopted fixing a future date certain upon which the state bank shall be transformed into a trust company and directing not less than five nor more than thirty of the stockholders of the bank, who shall be designated by name in the resolution, to proceed with the organization of the trust company;

(3) The designated stockholders shall proceed in all respects as is provided by law for other individuals in incorporating a trust company, except that the articles of agreement may provide that instead of the capital stock being paid up in lawful money the same may be paid up by an assignment of the assets of the state bank about to dissolve, the assignment to take effect at the aforesaid future date certain, and the director may allow the assignment to be accepted instead of cash, if the incorporators shall have certified in the articles of agreement that the net value of the assigned assets is equal to at least the full amount of the stock of the proposed trust company, and the director, as the result of an examination by himself, his deputies or his examiners, is satisfied that the assets are of such value, **and except further that the stockholders may request in the resolution referred to in subdivision (2) of subsection 2 of this section that the new charter contain the original incorporation date for such state bank to be dissolved and the director shall grant such request to be included in the new trust company public charter to be issued.**

362.170. UNIMPAIRED CAPITAL, DEFINED — RESTRICTIONS ON LOANS, AND TOTAL LIABILITY TO ANY ONE PERSON. — 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the

aggregate which will exceed [fifteen] **the greater of: (i) twenty-five percent of the unimpaired capital of the bank or trust company, provided such bank or trust company has a composite rating of 1 or 2 under the Capital, Assets, Management, Earnings, Liquidity and Sensitivity (CAMELS) rating system of the Federal Financial Institute Examination Counsel (FFIEC); (ii) fifteen percent of the unimpaired capital of the bank or trust company** if located in a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

(a) The restrictions in this subdivision shall not apply to:

a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;

b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;

c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;

d. Loans to the extent that they are insured or covered by guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not so agreed to be purchased or discounted is within the restrictive provisions of this section;

e. Obligations to any bank or trust company in the form of notes of any person, copartnership, association, corporation or limited liability company, secured by not less than a like amount of direct obligations of the United States which will mature in not exceeding five years from the date the obligations to the bank are entered into;

f. Loans to the extent they are secured by a segregated deposit account in the lending bank if the lending bank has obtained a perfected security interest in such account;

g. Evidences of debt which are direct obligations of, or which are guaranteed by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully collateralized by direct obligations of, and which are issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, a Federal Home Loan Bank, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation;

(b) The total liabilities to the bank or trust company of any individual, partnership, corporation or limited liability company may equal but not exceed thirty-five percent of the unimpaired capital of the bank or trust company; provided, that all of the total liabilities in excess of the legal loan limit of the bank or trust company as defined in this subdivision are upon paper based upon the collateral security of warehouse receipts covering agricultural products or the

manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: first, that the actual market value of the property held in store and covered by the receipt shall at all times exceed by at least fifteen percent the amount loaned upon it; and second, that the property covered by the receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is located, and when the insurance has been used to the limit that it can be secured, then in corporations or with individuals licensed to do an insurance business by the state or country of their incorporation or residence; and all policies covering property on which the loan is made shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and provided further, that in arriving at the amount that may be loaned by any bank or trust company to any individual, partnership, corporation or limited liability company on elevator or warehouse receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of all other liabilities of the individual, partnership, corporation or limited liability company to the bank or trust company;

(c) In computing the total liabilities of any individual to a bank or trust company there shall be included all liabilities to the bank or trust company of any partnership of which the individual is a member, and any loans made for the individual's benefit or for the benefit of the partnership; of any partnership to a bank or trust company there shall be included all liabilities of and all loans made for the benefit of the partnership; of any corporation to a bank or trust company there shall be included all loans made for the benefit of the corporation and of any limited liability company to a bank or trust company there shall be included all loans made for the benefit of the limited liability company;

(d) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values, shall not be considered as money borrowed within the meaning of this section; and the purchase or discount of negotiable or nonnegotiable paper which carries the full recourse endorsements or guaranty or agreement to repurchase of the person, copartnership, association, corporation or limited liability company negotiating the same, shall not be considered as money borrowed by the endorser or guarantor or the repurchaser within the meaning of this section, provided that the files of the bank or trust company acquiring the paper contain the written certification by an officer designated for this purpose by its board of directors that the responsibility of the makers has been evaluated and the acquiring bank or trust company is relying primarily upon the makers thereof for the payment of the paper;

(e) For the purpose of this section, a loan guaranteed by an individual who does not receive the proceeds of the loan shall not be considered a loan to the guarantor;

(f) Investments in mortgage-related securities, as described in the Secondary Mortgage Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g. of paragraph (a) of subdivision (1) of this subsection, shall be subject to the restrictions of this section, provided that a bank or trust company may invest up to two times its legal loan limit in any such securities that are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization;

(2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly purchase or be interested in the purchase of any certificate of deposit, pass book, promissory note, or other evidence of debt issued by it, for less than the principal amount of the debt, without interest, for which it was issued. Every bank or trust company or person violating the provisions of this subdivision shall forfeit to the state the face value of the note or other evidence of debt so purchased;

(3) Make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of these shares, unless the security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time

of its purchase or acquisition unless the time is extended by the finance director. Any bank or trust company violating any of the provisions of this subdivision shall forfeit to the state the amount of the loan or purchase;

(4) Knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon security having an ascertained or market value of at least fifteen percent more than the amount of the loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the state the amount of the loan;

(5) No salaried officer of any bank or trust company shall use or borrow for himself or herself, directly or indirectly, any money or other property belonging to any bank or trust company of which the person is an officer, in excess of ten percent of the unimpaired capital of the bank or trust company, nor shall the total amount loaned to all salaried officers of any bank or trust company exceed twenty-five percent of the unimpaired capital of the bank or trust company. Where loans and a line of credit are made to salaried officers, the loans and line of credit shall first be approved by a majority of the board of directors or of the executive or discount committee, the approval to be in writing and the officer to whom the loans are made, not voting. The form of the approval shall be as follows:

We, the undersigned, constituting a majority of the of the (bank or trust company), do hereby approve a loan of \$..... or a line of credit of \$....., or both, to, it appearing that the loan or line of credit, or both, is not more than 10 percent of the unimpaired capital of (bank or trust company); it further appearing that the loan (money actually advanced) will not make the aggregate of loans to salaried officers more than 25 percent of the unimpaired capital of the bank or trust company.

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.....

Dated this day of, 20.... Provided, if the officer owns or controls a majority of the stock of any other corporation, a loan to that corporation shall be considered for the purpose of this subdivision as a loan to the officer. Every bank or trust company or officer thereof knowingly violating the provisions of this subdivision shall, for each offense, forfeit to the state the amount lent;

(6) Invest or keep invested in the stock of any private corporation, **provided however, a bank or trust company may invest in equity stock in the Federal Home Loan Bank up to twice the limit described in subdivision (1) of this subsection and** except as otherwise provided in this chapter.

3. Provided, that the provisions in this section shall not be so construed as in any way to interfere with the rules and regulations of any clearinghouse association in this state in reference to the daily balances; and provided, that this section shall not apply to balances due from any correspondent subject to draft.

4. Provided, that a trust company which does not accept demand deposits shall be permitted to make loans secured by a first mortgage or deed of trust on real estate to any individual, partnership, corporation or limited liability company, and to deal and invest in the interest-bearing obligations of any state, or any city, county, town, village, or political subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

5. Any officer, director, agent, clerk, or employee of any bank or trust company who willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any individual, partnership, corporation or limited liability company or by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation

of any person, partnership, corporation or limited liability company, in excess of the amounts set out in this section, shall be deemed guilty of a class C felony.

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen percent of the capital and surplus fund of the trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities, or investing in other securities in which trust companies may invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to January 1, 1915, and the prohibition for investments in this subsection shall not apply to investments otherwise provided by law other than subdivision (4) of subsection 3 of section 362.105.

7. Any bank or trust company to which the provisions of subsection 2 of this section apply may continue to make loans pursuant to the provisions of subsection 2 of this section for up to five years after the appropriate decennial census indicates that the population of the city in which such bank or trust company is located has exceeded the limits provided in subsection 2 of this section.

362.245. BOARD OF DIRECTORS, QUALIFICATIONS — CUMULATIVE VOTING IN ELECTING DIRECTOR PERMITTED WHEN. — 1. The affairs and business of the corporation shall be managed by a board of directors, consisting of not less than five nor more than thirty-five stockholders who shall be elected annually; except, that trust companies in existence on October 13, 1967, may continue to divide the directors into three classes of equal number, as near as may be, and to elect one class each year for three-year terms. Notwithstanding any provision of this chapter to the contrary, a director who is not a stockholder shall have all the rights, privileges, and duties of a director who is a stockholder.

2. Each director shall be a citizen of the United States, and at least a majority of the directors must be residents of this state at the time of their election and during their continuance in office; provided, however, that if a director actually resides within a radius of one hundred miles of the banking house of said bank or trust company, even though his or her residence be in another state adjoining and contiguous to the state of Missouri, he or she shall for the purposes of this section be considered as a resident of this state and in ~~the~~ event such director shall be a nonresident of the state of Missouri he or she shall upon his or her election as a director file with the president of the banking house **or such other chief executive office as otherwise permitted by this chapter** written consent to service of legal process upon him in his or her capacity as a director by service of the legal process upon the president as though the same were personally served upon the director in Missouri.

3. If at a time when not more than a majority of the directors are residents of this state, any director shall cease to be a resident of this state or adjoining state as defined in subsection 2 of this section, he or she shall forthwith cease to be a director of the bank or trust company and his or her office shall be vacant.

4. No person shall be a director in any bank or trust company against whom such bank or trust company shall hold a judgment.

5. Cumulative voting shall only be permitted at any meeting of the members or stockholders in electing directors when it is provided for in the articles of incorporation or bylaws.

362.270. ORGANIZATIONAL MEETING OF DIRECTORS. — Within thirty days after the date on which the annual meeting of the stockholders is held the directors elected at such meeting shall, after subscribing the oath required in section 362.250, hold a meeting at which they shall elect a chief executive officer which the board may designate as president or another appropriate title, from their own number, one or more vice presidents, and such other officers as are provided for by the bylaws to be elected annually, **except as otherwise provided by law.**

362.275. MONTHLY MEETING OF BOARD — REVIEW OF CERTAIN TRANSACTIONS — RATIFICATION OF POLL. — 1. The board of directors of every bank and trust company organized or doing business pursuant to this chapter shall hold a regular meeting at least once each month, or, upon application to and acceptance by the director of finance, at such other times, not less frequently than once each calendar quarter as the director of finance shall approve, which approval may be rescinded at any time. There shall be submitted to the meeting a list giving the aggregate of loans, discounts, acceptances and advances, including overdrafts, to each individual, partnership, corporation or person whose liability to the bank or trust company has been created, extended, renewed or increased since the cut-off date prior to the regular meeting by more than an amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars, and a second list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds five times such minimum amount, except the aggregate indebtedness shall in no case be less than fifty thousand dollars; and a third list showing all paper past due thirty days or more; and a fourth list showing the aggregate of the then existing indebtedness and liability to the bank or trust company of each of the directors, officers, and employees thereof. The information called for in the second, third, and fourth lists shall be submitted as of the date of the regular meeting or as of a reasonable date prior thereto. If there is collateral to the indebtedness, it shall be described as of the date of the lists. No bills payable shall be made, and no bills shall be rediscounted by the bank or trust company except with the consent or ratification of the board of directors; provided, however, that if the bank or trust company is a member of the federal reserve system, rediscounts may be made to it by the officers in accordance with its rules, a list of all rediscounts to be submitted to the next regular meeting of the board. The director of finance may require, by order, that the board of directors of a bank or trust company approve or disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal or other advance including every overdraft over an amount to be specified in the director's order and may also require that the board of directors review, at each monthly meeting, a list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds an amount to be specified in the director's order. The minutes of the meeting shall indicate the compliance with the requirements of this section. Furthermore, the debtor's identity on the information required in this subsection, may be masked by code to conceal the actual debtor's identity only for information mailed to or otherwise provided directors who are not physically present at the board meeting. The code used shall be revealed to all directors at the beginning of each board meeting for which this procedure is used.

2. **For any issue in need of immediate action,** the board of directors **or the executive committee of the board as defined in section 362.253** may ratify a poll taken by the bank or trust company's senior officers on any issue in need of immediate action and ultimate board approval, provided:

(1) The vote by poll meets or exceeds a majority of the board of directors unless a greater number of votes for board action is required by the bank or trust company's articles of agreement, bylaws or the law;

(2) Any director who is a member of the board and has a pecuniary interest in the board's action, recuses himself or herself from the poll, takes no part, and does not vote on the board ratification of such issue; and

(3) Such poll is made available by director's name and vote to the board prior to the board's vote on ratification.

3. If the board ratifies such poll as provided in subsection 2 of this section, the ratification shall have the same force and effect as the board originally approving such action at a board meeting, as of the date the poll is approved] **enter into a unanimous consent agreement as permitted by subsection 2 of section 351.340, RSMo. Such consent may be communicated by facsimile transmission or by other authenticated record, separately by each director, provided each consent is signed by the director and the bank has no indication such signature is not the director's valid consent. When the bank or trust company has received unanimous consent from the board or executive committee, the action voted on shall be considered approved.**

362.335. OFFICERS AND EMPLOYEES — LIMITATION ON POWERS — APPOINTMENT OF PRESIDENT NOT REQUIRED — CHIEF EXECUTIVE OFFICER NOT REQUIRED TO BE MEMBER OF BOARD, WHEN. — 1. The directors may appoint and remove any cashier, secretary or other officer or employee at pleasure.

2. The cashier, secretary or any other officer or employee shall not endorse, pledge or hypothecate any notes, bonds or other obligations received by the corporation for money loaned, until such power and authority is given the cashier, secretary or other officer or employee by the board of directors, pursuant to a resolution of the board of directors, a written record of which proceedings shall first have been made; and a certified copy of the resolution, signed by the president and cashier or secretary with the corporate seal annexed, shall be conclusive evidence of the grant of this power; and all acts of endorsing, pledging and hypothecating done by the cashier, secretary or other officer or employee of the bank or trust company without the authority from the board of directors shall be null and void. The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.

3. **A bank or trust company may appoint such officers as provided for in the articles of agreement, bylaws or as otherwise provided by law, however provided the directors appoint an officer that is also designated as the chief executive officer, the bank or trust company shall not be required to appoint an officer designated as president. When the chief executive officer owns or controls fifty percent or more of the voting stock of the bank or trust company, such chief executive officer shall not be required to be a member of the board of directors, unless the director of the division of finance determines such officer's presence is necessary to prevent unsafe and unsound banking activity.**

364.120. INTEREST OR DISCOUNT, AMOUNT ALLOWED, COMPUTATION — PREPAYMENT OF OBLIGATION — REFUND CREDIT, CALCULATION. — 1. A premium finance company shall not charge, contract for, receive, or collect any interest or discount charge other than as permitted by sections 364.100 to 364.160.

2. The interest or discount is to be computed on the balance of the premiums due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance contract, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

3. The interest or discount shall be a maximum of fifteen dollars per one hundred dollars per year, which shall be computed as a fifteen percent add-on interest rate, plus an additional service charge of ten dollars per premium finance agreement which need not be refunded on cancellation or prepayment; except that, if the insurance premiums being financed are for other than personal, family or household purposes, the parties to the premium finance agreement may agree to any rate of interest which shall be stated in the premium finance agreement. The interest or discount permitted by this subsection anticipates timely repayment in consecutive monthly

installments equal in amount for a period of one year. For repayment in greater or lesser periods or in unequal, irregular, or other than monthly installments, the interest or discount may be computed at an equivalent effective rate having due regard for the timely payments of installments.

4. Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time and shall receive a refund credit], which shall represent at least as great a proportion of the interest or discount as the sum of the periodic balances, after the month in which prepayment is made, bears to the sum of all periodic balances under the schedule of installments in the agreement; except that, if the initial term of the contract is greater than sixty-one months, the interest earned shall be computed to the date of prepayment on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding. Where the amount of the refund credit is less than one dollar, no refund need be made]. **The amount of the refund shall be calculated by the actuarial method of calculating refunds and no more interest shall be retained by the lender than is actually earned.**

365.100. LATE PAYMENT CHARGES, INTEREST ON DELINQUENT PAYMENTS, ATTORNEY FEES — DISHONORED OR INSUFFICIENT FUNDS FEE. — If the contract so provides, the holder thereof may charge and collect:

(1) [A delinquency and collection charge on each installment in default for a period of not less than ten days in an amount not to exceed five percent of each installment or five dollars, whichever is less] **A charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made, or when the installment is for twenty-five dollars or less, a charge for late payment for a period of not less than fifteen days shall not exceed five dollars,** provided, however, that a minimum charge of one dollar may be made;

(2) Interest on each delinquent payment at a rate which shall not exceed the highest lawful contract rate. In addition to such charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under the contract where the contract is referred for collection to any attorney not a salaried employee of the holder, plus court costs; **and**

(3) A dishonored or insufficient funds check fee equal to such fee as provided in section 408.653, RSMo, in addition to fees charged by a bank for each check, draft, order or like instrument which is returned unpaid.

365.140. PREPAYMENT OF DEBT UNDER RETAIL INSTALLMENT CONTRACT — REFUND, HOW COMPUTED. — Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall [represent at least as great a proportion of the time price differential as the sum of the monthly time balances beginning one month after prepayment is made bears to the sum of all the monthly time balances under the schedule of payment in the contract after deducting from the refund an acquisition cost of fifteen dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of the time price differential earned shall be computed to the date of prepayment on the basis of the rate originally contracted for on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080. Where the amount of credit

is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail installment contract is prepaid. Any insurance rendered unnecessary by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080.**

367.518. TITLE LOAN AGREEMENTS, CONTENTS, FORM. — 1. Each title loan agreement shall disclose the following:

- (1) All disclosures required by the federal Truth in Lending Act and regulation Z;
- (2) That the transaction is a loan secured by the pledge of titled personal property and, in at least ten-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property;
- (3) The name, business address, telephone number and certificate number of the title lender, and the name and residential address of the borrower;
- (4) The monthly interest rate to be charged;
- (5) A statement which shall be in at least ten-point bold type, separately acknowledged by the signature of the borrower and reading as follows: You may cancel this loan without any costs by returning the full principal amount to the lender by the close of the lender's next full business day;
- (6) The location where the titled personal property may be delivered if the loan is not paid and the hours such location is open for receiving such deliveries; and
- (7) Any additional disclosures deemed necessary by the director or required pursuant to sections 400.9-101 to [400.9-508] **400.9-710**, RSMo.

2. The division of finance is directed to draft a form to be used in title loan transactions. Use of this form is not mandatory; however, use of such form, properly completed, shall satisfy the disclosure provisions of this section.

375.018. ISSUANCE OF PRODUCER'S LICENSE, DURATION — LINES OF AUTHORITY — BIENNIAL RENEWAL FEE FOR AGENTS, DUE WHEN — REINSTATEMENT OF LICENSE, WHEN — FAILURE TO COMPLY, EFFECT. — 1. Unless denied licensure pursuant to section 375.141, persons who have met the requirements of sections 375.014, 375.015 and 375.016 shall be issued an insurance producer license for a term of two years. An insurance producer may qualify for a license in one or more of the following lines of authority:

- (1) Life insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;
- (2) Accident and health or sickness insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income;
- (3) Property insurance coverage for the direct or consequential loss or damage to property of every kind;
- (4) Casualty insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property;
- (5) Variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;
- (6) Personal lines property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
- (7) Credit-limited line credit insurance;
- (8) Any other line of insurance permitted under state laws or regulations.

2. Any insurance producer who is certified by the Federal Crop Insurance Corporation on September 28, 1995, to write federal crop insurance shall not be required to have a property license for the purpose of writing federal crop insurance.

3. The biennial renewal fee for a producer's license is one hundred dollars for each license. A producer's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 375.141.

4. An individual insurance producer who allows his or her license to expire may, within twelve months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. The insurance producer seeking relicensing pursuant to this subsection shall provide proof that the continuing education requirements have been met and shall pay a penalty of twenty-five dollars per month that the license was expired in addition to the requisite renewal fees that would have been paid had the license been renewed in a timely manner. Nothing in this subsection shall require the director to relicense any insurance producer determined to have violated the provisions of section 375.141.

5. **A business entity insurance producer that allows the license to expire may, within twelve months of the due date of the renewal, reinstate the license by paying the license fee that would have been paid had the license been renewed in a timely manner plus a penalty of twenty-five dollars per month that the license was expired.**

6. The license shall contain the name, address, identification number of the insurance producer, the date of issuance, the lines of authority, the expiration date and any other information the director deems necessary.

[6.] 7. Insurance producers shall inform the director by any means acceptable to the director of a change of address within thirty days of the change. Failure to timely inform the director of a change in legal name or address may result in a forfeiture not to exceed the sum of ten dollars per month.

[7.] 8. In order to assist the director in the performance of his or her duties, the director may contract with nongovernmental entities, including the National Association of Insurance Commissioners or any affiliates or subsidiaries that the organization oversees or through any other method the director deems appropriate, to perform any ministerial functions, including the collection of fees, related to producer licensing that the director may deem appropriate.

[8.] 9. Any bank or trust company in the sale or issuance of insurance products or services shall be subject to the insurance laws of this state and rules adopted by the department of insurance.

[9.] 10. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any other fine or sanction imposed for failure to comply with renewal procedures.

[375.018. ISSUANCE OF PRODUCER'S LICENSE, DURATION — LINES OF AUTHORITY — BIENNIAL RENEWAL FEE FOR AGENTS, DUE WHEN — REINSTATEMENT OF LICENSE, WHEN — FAILURE TO COMPLY, EFFECT. — 1. In addition to any other requirement imposed by law or rule, no applicant for an agent's or broker's license shall be qualified therefor unless, within one year immediately preceding the date a written application is made to the director, the applicant has successfully completed a course of study approved by the director requiring the following hours of study, or the equivalent thereof, for the following licenses: Not less than twenty hours for a license limited to fire and allied lines insurance and twenty hours for general casualty insurance, or forty hours combined of fire and allied lines and general casualty insurance; and not less than fifteen hours for a license limited to life insurance and fifteen hours for accident and health insurance. Any agent who is certified by the Federal Crop Insurance Corporation on September 28, 1985, to write federal crop insurance shall not be required to have a fire and allied lines license for the purpose of writing federal crop insurance. The director shall grant authority until revoked to such public and private educational organizations, technical colleges, trade schools, insurance companies or insurance trade organizations, or other approved organizations that provide satisfactory evidence that the courses of study actually taken by the applicant were in substantial compliance with the requirements established by the director. The director shall

require the applicant to furnish a certificate of completion of any required courses of study from the authorized educational organizations. Every applicant seeking approval for a course of study by the director under this section shall pay to the director a filing fee of fifty dollars per course, unless it is a not-for-profit agents' group or association which provides no compensation to the course instructor. Such fee shall accompany any application form required by the director for such course approval. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the director's previous approval.

2. Before any insurance agent's license is issued, there shall be on file in the office of the director the following:

(1) A written application made under oath by the prospective licensee in the form prescribed by the director. The application form shall contain answers to the following interrogatories: name, address, date of birth, sex, past employment for the three-year period immediately preceding the date of the application, past experience in insurance, status of accounts with insurance companies and agents, criminal convictions or pleas of nolo contendere for felonies or misdemeanors, or currently pending felony charges or misdemeanor charges excluding minor traffic violations, and if a surety bond has ever been refused or revoked as a result of dishonest acts or practices. In addition, the application form shall contain a statement as to the kinds of insurance business in which the applicant intends to engage; and

(2) A fee of twenty-five dollars must accompany each application for an agent's license.

3. The director shall, in order to determine the competency of every individual applicant for a license, require the individual applicant to take and pass to the satisfaction of the director a written examination upon the kind or kinds of insurance business specified in his or her application. Such examinations shall be held at such times and places as the director shall from time to time determine. The director may, at his order or discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the director, and examination fees charged by such service shall be paid by the applicant. An examination fee represents an administrative expense and is not refundable.

4. The examination shall be as prescribed by the director and shall be of sufficient scope so as to reasonably test the applicant's knowledge relative to the kind or kinds of insurance which may be dealt with under the license applied for by the applicant. The applicant shall be notified of the result of the examination within twenty working days of the examination. The applicant may begin to act as an agent for those lines for which the applicant has passed an examination and completed the study requirements required by subsection 1 of this section and a license has been received by the applicant.

5. No examination or approved course of study required by subsection 1 of this section shall be required of:

(1) An applicant who is a ticket-selling agent or representative of a common carrier or other company who acts as an insurance agent only in reference to the issuance of insurance contracts primarily for covering the risk of travel;

(2) An applicant who holds a current license in another state which requires a written examination satisfactory to the director;

(3) An applicant for the same kind of license as that which was held in another state within one year next preceding the date of the application and which the applicant secured by passing a written examination and fulfilling comparable study requirements, and provided that the applicant is a legal resident of this state at the time of the application and is otherwise deemed by the director to be fully qualified;

(4) An applicant who is an owner of an individually owned business, his employee, or an officer or employee of a partnership or corporation who solicits, negotiates or procures credit life, accident and health or property insurance in connection with a loan or a retail time sale

transaction made by the corporation, partnership, or individual business, or in a business in which there is conducted wholly or partly retail installment transactions under chapter 365, RSMo;

(5) Any person selling title insurance.

6. Every application for a license which may be granted without examination shall be accompanied by a fee of twenty-five dollars.

7. Subsection 1 of this section shall not apply to any person licensed as an agent or broker on January 1, 1986, unless the agent or broker applies for a type of license or line of insurance for which the agent or broker is not licensed as of January 1, 1986.

8. The biennial renewal fee for an agent's license is twenty-five dollars for each license. An agent's license shall be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 375.141; except that if the biennial renewal fee for the license is not paid within ninety days after the biennial anniversary date or if the agent has not complied with section 375.020 if applicable within ninety days after the biennial anniversary date, the license terminates as of ninety days after the biennial anniversary date.

9. Any nonresident agent who has not complied with the provisions of section 375.020 may not reapply for an agent license until that agent has taken the continuing education courses required under section 375.020.

10. An agent whose license terminated for nonpayment of the biennial renewal fee or noncompliance with section 375.020 may apply for a new agent's license because of such nonpayment or noncompliance, except that such agent must comply with all provisions of this section regarding issuance of a new license if such license was terminated for noncompliance with section 375.020, or shall pay a late fee at the rate of twenty-five dollars per month or fraction thereof after the biennial anniversary date if such license was terminated for nonpayment of the renewal fee, except that nothing in this subsection shall require the director to relicense any agent determined to have violated the provisions of subsection 1 of section 375.141.]

375.065. CREDIT INSURANCE PRODUCER LICENSE — ORGANIZATIONAL CREDIT ENTITY LICENSE — APPLICATION — FEE — RULES — ORGANIZATION CREDIT AGENCY LICENSE ISSUED, PROCEDURE, RULES — EFFECTIVE DATE, TERMINATION DATE. — 1. Notwithstanding any other provision of this chapter, the director may license credit insurance producers by issuing individual licenses to each credit insurance producer or by issuing an organizational credit entity license to a resident or nonresident applicant who has complied with the requirements of **subsections 1 to 7 of this section**. An organizational credit entity license authorizes the employees of the licensee who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as insurance producers for the following types of insurance:

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit [involuntary unemployment] **mortgage life** insurance;
- (5) **Credit mortgage disability insurance;**
- (6) **Credit involuntary unemployment insurance;**
- (7) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit entity license, an applicant shall submit to the director the uniform business entity application along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the business entity, the business address or addresses of the business entity and the type of ownership of the business entity. If a business entity is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of the business entity. If the business entity is a corporation, the application shall contain the names and addresses of all

officers and directors of the corporation. If the business entity is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the business entity and to whom it pays any salary or commission for the sale, solicitation, negotiation or procurement of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property, **credit mortgage life, credit mortgage disability** or any other form of credit or credit-related insurance approved by the director. Any changes in the list of employees of the business entity due to hiring or termination or any other reason shall be submitted to the director within ten days of the change.

3. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed insurance producers pursuant to the provisions of subsection 1 of section 375.014 for the authorized lines of credit insurance, and shall be deemed licensed insurance producers for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on the business entity application list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant has complied with all license requirements contained in **subsections 1 to 7 of this section**, shall issue the applicant an organizational credit business entity license which shall remain in effect for one year or until suspended or revoked by the director, or until the organizational credit business entity ceases to operate as a legal entity in this state. Each organizational credit business entity shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

(1) Paying a renewal fee of fifty dollars;

(2) Providing the director a list of all employees selling, soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each employee.

5. Licenses of organizational credit business entities which are not timely renewed shall expire on the anniversary date of the original issuance. An organizational credit business entity that allows the license to expire may, within twelve months of the due date of the renewal, reinstate the license by paying the license fee that would have been paid had the license been renewed in a timely manner plus a penalty of twenty-five dollars per month that the license was expired.

6. Notwithstanding any other provision of law to the contrary, **subsections 1 to 7 of this section** shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit business entity.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of **subsections 1 to 7 of this section**. No rule or portion of a rule promulgated pursuant to the authority of **subsections 1 to 7 of this section** shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

8. Notwithstanding any other provision of this chapter, the director may license credit insurance agents by issuing individual licenses to such agents or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of subsections 8 to 14 of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as agents for the following types of insurance:

(1) **Credit life insurance;**

(2) **Credit accident and health insurance;**

(3) **Credit property insurance;**

(4) **Credit mortgage life insurance;**

(5) **Credit mortgage disability insurance;**

(6) **Credit involuntary unemployment insurance;**

(7) **Any other form of credit or credit-related insurance approved by the director.**

9. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property, credit mortgage life, credit mortgage disability or any other form of credit or credit-related insurance approved by the director.

10. An organizational credit agency authorized pursuant to subsections 8 to 14 of this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included on the list referenced in subdivision (2) of subsection 9 of this section shall be deemed licensed agents pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed agents for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

11. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in subsections 8 to 14 of this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

- (1) Paying a renewal fee of fifty dollars;
- (2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

12. Licenses which are not timely renewed shall expire thirty days after the anniversary date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

13. Notwithstanding any other provision of law to the contrary, subsections 8 to 14 of this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

14. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of subsections 8 to 14 of this section. No rule or portion of a rule promulgated pursuant to the authority of subsections 8 to 14 of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

15. The provisions of subsections 1 to 7 of this section shall become effective January 1, 2003, and the provisions of subsections 8 to 14 of this section shall terminate December 31, 2002.

[375.065. CREDIT INSURANCE PRODUCER LICENSE — ORGANIZATIONAL CREDIT ENTITY LICENSE — APPLICATION — FEE — RULES — ORGANIZATION CREDIT AGENCY

LICENSE ISSUED, PROCEDURE, RULES — EFFECTIVE DATE, TERMINATION DATE. — 1. Notwithstanding any other provision of this chapter, the director may license credit insurance agents by issuing individual licenses to such agents or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as agents for the following types of insurance:

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit involuntary unemployment insurance;
- (5) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property or any other form of credit or credit-related insurance approved by the director.

3. An organizational credit agency authorized pursuant to this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed licensed agents pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed agents for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

- (1) Paying a renewal fee of fifty dollars;
- (2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

5. Licenses which are not timely renewed shall expire thirty days after the anniversary date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

6. Notwithstanding any other provision of law to the contrary, this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of this section. No rule or portion of a rule promulgated

pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

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 misrepresentation.

2. Notwithstanding any other provision of law to the contrary, no rule promulgated by the department setting forth criteria for payment of fees by or integration of systems of an insurer and an entity administering claims involving injured employees shall apply to such parties, unless a contractual relationship between such parties to administer claims on behalf of one or more employers is established and the provisions of the rule are not contrary to specific terms in the contract.

3. 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.

385.050. REVISION OF PREMIUM SCHEDULES, PROCEDURE FOR — REFUNDS PAID, WHEN — LIMIT ON CHARGE FOR CREDIT LIFE. — 1. Any insurer may revise its schedules of premium rates from time to time and shall file the revised schedules with the director. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then approved by the director.

2. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the ["sum of the digits" formula with respect to decreasing term credit life insurance and credit accident and sickness insurance, and the pro rata unearned gross premium with respect to level term credit life insurance] **actuarial method of calculating refunds which produces a refund equal to the original premium multiplied by the ratio of the sum of the remaining insured balances divided by the sum of the original insured balances as of the due date nearest the date of prepayment in full.**

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

4. The amount charged to a debtor for any credit life or credit accident and sickness insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

5. Nothing in sections 385.010 to 385.080 shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

400.9-102. DEFINITIONS AND INDEX OF DEFINITIONS.—(a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card;

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper;

(4) "Accounting", except as used in "accounting for", means a record:

(A) Authenticated by a secured party;

(B) Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) Identifying the components of the obligations in reasonable detail;

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation;

(B) Which is created by statute in favor of a person that:

(i) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(C) Whose effectiveness does not depend on the person's possession of the personal property;

(6) "As-extracted collateral" means:

(A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction;

(7) "Authenticate" means:

(A) To sign; or

(B) To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record;

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like;

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, **a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods.** The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced [both by a security agreement or lease and] by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper;

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) Goods that are the subject of a consignment;

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) The claimant is an individual and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) Does not include damages arising out of personal injury to or the death of an individual;

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer;

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(17) "Commodity intermediary" means a person that:

(A) Is registered as a futures commission merchant under federal commodities law; or

(B) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(18) "Communicate" means:

(A) To send a written or other tangible record;

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;

(19) "Consignee" means a merchant to which goods are delivered in a consignment;

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

- (B) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;
- (C) The goods are not consumer goods immediately before delivery; and
- (D) The transaction does not create a security interest that secures an obligation;
- (21) "Consignor" means a person that delivers goods to a consignee in a consignment;
- (22) "Consumer debtor" means a debtor in a consumer transaction;
- (23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes;
- (24) "Consumer-goods transaction" means a consumer transaction in which:
- (A) An individual incurs an obligation primarily for personal, family, or household purposes; and
- (B) A security interest in consumer goods secures the obligation;
- (25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes;
- (26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions;
- (27) "Continuation statement" means an amendment of a financing statement which:
- (A) Identifies, by its file number, the initial financing statement to which it relates; and
- (B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;
- (28) "Debtor" means:
- (A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
- (B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or
- (C) A consignee;
- (29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument;
- (30) "Document" means a document of title or a receipt of the type described in section 400.7-201(2);
- (31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium;
- (32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property;
- (33) "Equipment" means goods other than inventory, farm products, or consumer goods;
- (34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
- (A) Crops grown, growing, or to be grown, including:
- (i) Crops produced on trees, vines, and bushes; and
- (ii) Aquatic goods produced in aquacultural operations;
- (B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;
- (C) Supplies used or produced in a farming operation; or
- (D) Products of crops or livestock in their unmanufactured states;
- (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation;
- (36) "File number" means the number assigned to an initial financing statement pursuant to section 400.9-519(a);
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- (37) "Filing office" means an office designated in section 400.9-501 as the place to file a financing statement;
- (38) "Filing-office rule" means a rule adopted pursuant to section 400.9-526;
- (39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;
- (40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 400.9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures;
- (41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;
- (42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software;
- (43) "Good faith" means honesty in fact;
- (44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction;
- (45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;
- (46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided;
- (47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;
- (48) "Inventory" means goods, other than farm products, which:
- (A) Are leased by a person as lessor;
 - (B) Are held by a person for sale or lease or to be furnished under a contract of service;
 - (C) Are furnished by a person under a contract of service; or
 - (D) Consist of raw materials, work in process, or materials used or consumed in a business;
- (49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account;

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized;

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;

(52) "Lien creditor" means:

(A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) An assignee for benefit of creditors from the time of assignment;

(C) A trustee in bankruptcy from the date of the filing of the petition; or

(D) A receiver in equity from the time of appointment;

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;

(54) "Manufactured-home transaction" means a secured transaction:

(A) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation;

(56) "New debtor" means a person that becomes bound as debtor under section 400.9-203(d) by a security agreement previously entered into by another person;

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation;

(58) "Noncash proceeds" means proceeds other than cash proceeds;

(59) ["Notice" means a properly filed financing statement;

(60) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit;

[(61)] (60) "Original debtor", **except as used in section 400.9-310(c)**, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 400.9-203(d);

[(62)] (61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation;

[(63)] (62) "Person related to", with respect to an individual, means:

(A) The spouse of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual's spouse; or

(D) Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual;

[(64)] **(63)** "Person related to", with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);

(D) The spouse of an individual described in subparagraph (A), (B), or (C); or

(E) An individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual;

[(65)] **(64)** "Proceeds", **except as used in section 400.9-609(b)**, means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

[(66)] **(65)** "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

[(67)] **(66)** "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 400.9-620, 400.9-621 and 400.9-622;

[(68)] **(67)** "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

[(69)] **(68)** "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;

[(70)] **(69)** "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized;

[(71)] **(70)** "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either;

[(72)] **(71)** "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under sections 400.2-401, 400.2-505, 400.2-711(3), 400.2A-508(5), 400.4-210 or 400.5-118;

[(73)] (72) "Security agreement" means an agreement that creates or provides for a security interest;

[(74)] (73) "Send", in connection with a record or notification, means:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A);

[(75)] (74) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

[(76)] (75) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

[(77)] (76) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property;

[(78)] (77) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

[(79)] (78) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective;

[(80)] (79) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

(C) Transmitting goods by pipeline or sewer; or

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) The following definitions in other articles apply to this article:

"Applicant" Section 400.5-102.

"Beneficiary" Section 400.5-102.

"Broker" Section 400.8-102.

"Certificated security" Section 400.8-102.

"Check" Section 400.3-104.

"Clearing corporation" Section 400.8-102.

"Contract for sale" Section 400.2-106.

"Customer" Section 400.4-104.

"Entitlement holder" Section 400.8-102.

"Financial asset" Section 400.8-102.

"Holder in due course" Section 400.3-302.

"Issuer" (with respect to a letter of credit or letter-of-credit right) Section 400.5-102.

"Issuer" (with respect to a security) Section 400.8-201.

"Lease" Section 400.2A-103.

"Lease agreement" Section 400.2A-103.

"Lease contract" Section 400.2A-103.

"Leasehold interest" Section 400.2A-103.

"Lessee" Section 400.2A-103.

"Lessee in ordinary course of business"	Section 400.2A-103.
"Lessor"	Section 400.2A-103.
"Lessor's residual interest"	Section 400.2A-103.
"Letter of credit"	Section 400.5-102.
"Merchant"	Section 400.2-104.
"Negotiable instrument"	Section 400.3-104.
"Nominated person"	Section 400.5-102.
"Note"	Section 400.3-104.
"Proceeds of a letter of credit"	Section 400.5-114.
"Prove"	Section 400.3-103.
"Sale"	Section 400.2-106.
"Securities account"	Section 400.8-501.
"Securities intermediary"	Section 400.8-102.
"Security"	Section 400.8-102.
"Security certificate"	Section 400.8-102.
"Security entitlement"	Section 400.8-102.
"Uncertificated security"	Section 400.8-102.

(c) This section contains general definitions and principles of construction and interpretation applicable throughout sections 400.9-103 to 400.9-708.

400.9-109. SCOPE. — (a) Except as otherwise provided in subsections (c) and (d), this article applies to:

- (1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) An agricultural lien;
- (3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) A consignment;
- (5) A security interest arising under section 400.2-401, 400.2-505, 400.2-711(3) or 400.2A-508(5), as provided in section 400.9-110; and
- (6) A security interest arising under section 400.4-210 or 400.5-118.

(b) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) This article does not apply to the extent that:

- (1) A statute, regulation, or treaty of the United States preempts this article;

(2) Another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;

~~[(2)]~~ **(3)** A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

~~[(3)]~~ **(4)** The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 400.5-114.

(d) This article does not apply to:

- (1) A landlord's lien, other than an agricultural lien;
- (2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 400.9-333 applies with respect to priority of the lien;
- (3) An assignment of a claim for wages, salary, or other compensation of an employee;
- (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

- (5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;
- (6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
- (7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
- (8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds;
- (9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;
- (10) A right of recoupment or set-off, but:
 - (A) Section 400.9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and
 - (B) Section 400.9-404 applies with respect to defenses or claims of an account debtor;
- (11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:
 - (A) Liens on real property in sections 400.9-203 and 400.9-308;
 - (B) Fixtures in section 400.9-334;
 - (C) Fixture filings in sections 400.9-501, 400.9-502, 400.9-512, 400.9-516 and 400.9-519;and
 - (D) Security agreements covering personal and real property in section 400.9-604;
- (12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; or
- (13) An assignment of a deposit account in a consumer transaction, but sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; or
- (14) An assignment of a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. Section 104(a)(1) or (2), as amended from time to time; or
- (15) An assignment of a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. Section 1396p(d)(4), as amended from time to time; or
- (16) A transfer by a government or governmental subdivision or agency.

400.9-303. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE. — (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

(d) When a notice of lien is filed in accordance with chapter 301 or 306, RSMo, then the lien is perfected and this chapter shall not govern perfection or nonperfection or the priority of the lien even though a valid application for a certificate of title and the applicable fee was not delivered to the appropriate authority or the certificate of title was not issued by such authority.

(e) Article 9 of this chapter shall not apply to liens on manufactured homes perfected in accordance with sections 700.350 to 700.390, RSMo, and the perfection or

nonperfection, the priority and termination of the lien shall be governed by those sections, except liens or encumbrances on manufactured homes perfected pursuant to article 9 of this chapter, after June 30, 2001, and before August 28, 2002, and the perfection or nonperfection, the priority, termination, rights, duties, and interests flowing from them are and shall remain valid and may be terminated, completed, consummated, or enforced as required or permitted by article 9 of this chapter, provided such liens on such manufactured homes are not perfected in accordance with sections 700.350 to 700.390, RSMo, however when conflicting lienholders file liens on the same manufactured home, the lien filed under sections 700.350 to 700.390, RSMo, shall have priority over the lien filed under article 9 of this chapter, for the time period after June 30, 2001, and before August 28, 2002.

400.9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. — (a) [An unperfected] A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under section 400.9-322; and
(2) **Except as otherwise provided in subsection (e)**, a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) **One of the conditions specified in section 400.9-203(b)(3) is met and** a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 400.9-320 and 400.9-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

400.9-323. FUTURE ADVANCES. — (a) Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under section 400.9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) Is made while the security interest is perfected only:

(A) Under section 400.9-309 when it attaches; or

(B) Temporarily under section 400.9-312(e), (f), or (g); and

(2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 400.9-309 or 400.9-312(e), (f), or (g).

(b) Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor [while the security interest is perfected only] to the extent that [it] **the security interest** secures [advances] **an advance** made more than forty-five days after the person becomes a lien creditor unless the advance is made:

(1) Without knowledge of the lien; or

- (2) Pursuant to a commitment entered into without knowledge of the lien.
- (c) Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.
- (d) Except as otherwise provided in subsection (e), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:
 - (1) The time the secured party acquires knowledge of the buyer's purchase; or
 - (2) Forty-five days after the purchase.
- (e) Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five-day period.
- (f) Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:
 - (1) The time the secured party acquires knowledge of the lease; or
 - (2) Forty-five days after the lease contract becomes enforceable.
- (g) Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.

400.9-406. DISCHARGE OF ACCOUNT DEBTOR — NOTIFICATION OF ASSIGNMENT — IDENTIFICATION AND PROOF OF ASSIGNMENT — RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE. —

(a) Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h), notification is ineffective under subsection (a):

- (1) If it does not reasonably identify the rights assigned;
- (2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) Only a portion of the account, chattel paper, or general intangible has been assigned to that assignee;

(B) A portion has been assigned to another assignee; or

(C) The account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Except as otherwise provided in subsection (e) and sections 400.2A-303 and 400.9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

- (1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

- (2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim,

defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) Except as otherwise provided in sections 400.2A-303 and 400.9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(j) This section prevails over any inconsistent provisions of any statutes, rules, and regulations.

400.9-407. RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST. — (a) Except as otherwise provided in subsection (b), a term in a lease agreement is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of a party to the lease to the **assignment or transfer of, or the** creation, attachment, perfection, or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) Provides that the **assignment or transfer or the** creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) Except as otherwise provided in section 400.2A-303(7), a term described in subsection (a)(2) is effective to the extent that there is:

(1) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) A delegation of a material performance of either party to the lease contract in violation of the term.

(c) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section 400.2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor. [Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective.]

400.9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE. — (a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account

debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the **assignment or transfer or the** creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the **assignment or transfer or the** creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provisions of any statutes, rules, and regulations.

400.9-409. RESTRICTIONS ON ASSIGNMENT OF LETTER-OF-CREDIT RIGHTS INEFFECTIVE. — (a) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(2) Provides that the **assignment or the** creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) To the extent that a term in a letter of credit is ineffective under subsection (a) but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(1) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

400.9-504. INDICATION OF COLLATERAL. — A financing statement sufficiently indicates the collateral that it covers [only] if the financing statement provides:

(1) A description of the collateral pursuant to section 400.9-108; or

(2) An indication that the financing statement covers all assets or all personal property.

400.9-509. PERSONS ENTITLED TO FILE A RECORD. — (a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in an authenticated record **or pursuant to subsection (b) or (c)**; or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under section 400.9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under section 400.9-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under section 400.9-315(a)(2).

[(c)] **(d)** A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 400.9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

[(d)] **(e)** If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection [(c)] **(d)**.

400.9-513. TERMINATION STATEMENT. — (a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) The debtor did not authorize the filing of the initial financing statement.

(b) To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) If earlier, within twenty days after the secured party receives an authenticated demand from a debtor.

(c) In cases not governed by subsection (a), within twenty days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) The debtor did not authorize the filing of the initial financing statement.

(d) Except as otherwise provided in section 400.9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 400.9-510, for purposes of sections 400.9-519(g), 400.9-522(a), and 400.9-523(c), [upon] the filing **with the filing office** of a termination statement [with the filing office, a financing statement indicating that the debtor is a transmitting utility to which the termination statement relates ceases to be effective] **relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.**

400.9-525. FEES. — (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in section 400.9-502(c), is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;**
or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in section 400.9-502(c) is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee fund**; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(c) The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

(d) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) If the filing office is the secretary of state's office, then twenty-two dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund**; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) The [secretary of state] **department of revenue** shall administer a special trust fund, which is hereby established, to be known as the "Uniform Commercial Code Transition Fee Trust Fund", and which shall be funded by seven dollars of each of the fees received and collected pursuant to subdivisions (a), (b) and [(c)] **(d)** of this section on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund] **counties of this state for deposit in the uniform commercial code transition fee trust fund**.

(1) The secretary of state shall keep **and provide to the department of revenue and the county employee's retirement fund** accurate record of the moneys **to be deposited** in the uniform commercial code transition fee trust fund allocated to each county and city not within a county on the basis of where such record, financing statement or other document would have been filed prior to July 1, 2001, and **the department of revenue** shall distribute the moneys pursuant to subdivision (2) of this subsection on that basis.

(2) The moneys in the uniform commercial code transition fee trust fund shall be distributed to the county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund

(3) The moneys in the uniform commercial code transition fee trust fund shall [not] be deemed to be [state] **nonstate funds, as defined in article IV, section 15 of the Constitution of Missouri, to be administered by the department of revenue**, provided, however that interest, if any, earned by the money in the trust fund shall be deposited into the general revenue fund in the state treasury.

400.9-602. WAIVER OF VARIANCE OF RIGHTS AND DUTIES. — Except as otherwise provided in section 400.9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, [a secured party may not require] the debtor or obligor [to] **may not** waive or vary the rules stated in the following listed sections:

(1) Section 400.9-207(b)(4)(C), which deals with use and operation of the collateral by the secured party;

(2) Section 400.9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Section 400.9-607(c), which deals with collection and enforcement of collateral;

(4) Sections 400.9-608(a) and 400.9-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Sections 400.9-608(a) and 400.9-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 400.9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Sections 400.9-610(b), 400.9-611, 400.9-613 and 400.9-614, which deal with disposition of collateral;

(8) Section 400.9-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

[8] **(9)** Section 400.9-616, which deals with explanation of the calculation of a surplus or deficiency;

[9] **(10)** Sections 400.9-620, 400.9-621 and 400.9-622, which deal with acceptance of collateral in satisfaction of obligation;

[10] **(11)** Section 400.9-623, which deals with redemption of collateral;

[11] **(12)** Section 400.9-624, which deals with permissible waivers; and

[12] **(13)** Sections 400.9-625 and 400.9-626, which deal with the secured party's liability for failure to comply with this article.

400.9-608. APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. — (a) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under [this] section **400.9-607** in the following order to:

(A) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(B) The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed;

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(C);

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under [this] section **400.9-607** unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner;

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

400.9-611. NOTIFICATION BEFORE DISPOSITION OF COLLATERAL. — (a) In this section, "notification date" means the earlier of the date on which:

(1) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) The debtor and any secondary obligor waive the right to notification.

(b) Except as otherwise provided in subsection (d), a secured party that disposes of collateral under section 400.9-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) To comply with subsection (b), the secured party shall send an authenticated notification of disposition to:

(1) The debtor;

(2) Any secondary obligor; and

(3) If the collateral is other than consumer goods:

(A) Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) Any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) Identified the collateral;

(ii) Was indexed under the debtor's name as of that date; and

(iii) Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) Any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 400.9-311(a).

(d) Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) A secured party complies with the requirement for notification prescribed by subsection (c)(3)(B) if:

(1) Not later than twenty days or earlier than thirty days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

(2) Before the notification date, the secured party:

(A) Did not receive a response to the request for information; or

(B) Received a response to the request for information and sent an authenticated notification of disposition to each secured party **or other lienholder** named in that response whose financing statement covered the collateral.

400.9-613. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL: GENERAL. — Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) Describes the debtor and the secured party;

- (B) Describes the collateral that is the subject of the intended disposition;
 - (C) States the method of intended disposition;
 - (D) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and
 - (E) States the time and place of a public [sale] **disposition** or the time after which any other disposition is to be made;
- (2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) are nevertheless sufficient is a question of fact;
- (3) The contents of a notification providing substantially the information specified in paragraph (1) are sufficient, even if the notification includes:
- (A) Information not specified by that paragraph; or
 - (B) Minor errors that are not seriously misleading;
 - (4) A particular phrasing of the notification is not required;
 - (5) The following form of notification and the form appearing in section 400.9-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor, or other person to which the notification is sent)

From: (Name, address, and telephone number of secured party)

Name of Debtor(s): (Include only if debtor(s) are not an addressee)

(For a public disposition:)

We will sell (or lease or license, as applicable) the (describe collateral) (to the highest qualified bidder) in public as follows:

Day and Date: _____

Time: _____

Place: _____

(For a private disposition:)

We will sell (or lease or license, as applicable) the (describe collateral) privately sometime after (day and date).

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell (or lease or license, as applicable) (for a charge of \$ ____). You may request an accounting by calling us at (telephone number)

(End of Form)

400.9-615. APPLICATION OF PROCEEDS OF DISPOSITION — LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS. — (a) A secured party shall apply or pay over for application the cash proceeds of disposition **under section 400.9-610** in the following order to:

(1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(B) In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under [this] section **400.9-610** unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) Unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignee, the secured party shall account to and pay a debtor for any surplus; and

(2) The obligor is liable for any deficiency.

(e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) The obligor is not liable for any deficiency.

(f) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) A secured party that receives cash proceeds of a disposition in good faith and without notice that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

400.9-625. REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH ARTICLE. —

(a) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply [with a request under section 400.9-210] may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Except as otherwise provided in section 400.9-628:

(1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus ten percent of the principal amount of the obligation or the time-price differential plus ten percent of the cash price.

(d) A debtor whose deficiency is eliminated under section 400.9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is

eliminated or reduced under section 400.9-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars in each case from a person that:

- (1) Fails to comply with section 400.9-208;
- (2) Fails to comply with section 400.9-209;
- (3) Files a record that the person is not entitled to file under section 400.9-509(a);
- (4) Fails to cause the secured party of record to file or send a termination statement as required by section 400.9-513(a) or (c);
- (5) Fails to comply with section 400.9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
- (6) Fails to comply with section 400.9-616(b)(2).

(f) A debtor or consumer obligor may recover damages under subsection (b) and, in addition, five hundred dollars in each case from a person that, without reasonable cause, fails to comply with a request under section 400.9-210. A recipient of a request under section 400.9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section 400.9-210, the secured party may claim a security interest only as shown in the **list or** statement included in the request as against a person that is reasonably misled by the failure.

(h) This section shall apply on and after January 1, 2003.

400.9-710. LOCAL FILING OFFICE TO MAINTAIN FORMER ARTICLE 9 RECORDS. — (a) In this section:

(1) "Former article 9 records" means:

a. Financing statements and other records that have been filed in the local-filing office before July 1, 2001, and that are, or upon processing and indexing will be, reflected in the index maintained, as of July 1, 2001, by the local-filing office for financing statements and other records filed in the local-filing office before July 1, 2001; and

b. The index as of July 1, 2001.

The term does not include records presented to a local-filing office for filing after July 1, 2001, whether or not the records relate to financing statements filed in the local-filing office before July 1, 2001.

(2) "Local-filing office" means a filing office, other than the office of the secretary of state, that is designated as the proper place to file a financing statement under 400.9-401 of former article 9. The term applies only with respect to a record that covers a type of collateral as to which the filing office is designated in that section as the proper place to file.

(b) Except for a record terminating a former article 9 record, a local filing office shall not accept a record presented after June 30, 2001, whether or not the record relates to a financing statement filed in the local filing office before July 1, 2001. If the record terminating such former article 9 record is in the standard form prescribed by the secretary of state, the uniform fee for filing and indexing the termination statement in the office of a county recorder shall be the same fee as set out in the former article 9 before the effective date of this act.

[(b)] (c) Until June 30, [2006] **2008**, each local-filing office must maintain all former article 9 records in accordance with former article 9. A former article 9 record that is not reflected on the index maintained on July 1, 2001, by the local-filing office must be processed and indexed,

and reflected on the index as of July 1, 2001, as soon as practicable but in any event no later than thirty days after July 1, 2001.

[(c)] **(d)** Until at least June 30, 2008, each local-filing office must respond to requests for information with respect to former article 9 records relating to a debtor and issue certificates, in accordance with former article 9. The fees charged for responding to requests for information relating to a debtor and issuing certificates with respect to former article 9 records must be the fees in effect under former article 9 on July 1, 2001.

[(d)] **(e)** After June 30, [2006] **2008**, each local-filing office may remove and destroy, in accordance with any then applicable record retention law of this state, all former article 9 records, including the related index.

[(e)] **(f)** This section does not apply, with respect to financing statements and other records, to a filing office in which mortgages or records of mortgages on real property are required to be filed or recorded, if:

- (1) The collateral is timber to be cut or as-extracted collateral; or
- (2) The record is or relates to a financing statement filed as a fixture and the collateral is goods that are or are to become fixtures.

407.432. DEFINITIONS. — As used in sections 407.430 to 407.436, the following terms shall mean:

(1) "Acquirer", a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for merchandise;

(2) "Cardholder", the person's name on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer, or any agent **authorized signatory** or employee of such person;

(3) "Counterfeit credit card", any credit card which is fictitious, altered, or forged, any false representation, depiction, facsimile or component of a credit card, or any credit card which is stolen, obtained as part of a scheme to defraud, or otherwise unlawfully obtained, and which may or may not be embossed with account information or a company logo;

(4) "Credit card" or "**debit card**", any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money or merchandise on credit, or for use in an automated banking device to obtain any of the services offered through the device. The presentation of a credit card account number is deemed to be the presentation of a credit card;

(5) "Expired credit card", a credit card for which the expiration date shown on it has passed;

(6) "Issuer", the business organization or financial institution or its duly authorized agent, which issues a credit card;

(7) "Merchandise", any objects, wares, goods, commodities, intangibles, real estate, services, or anything else of value;

(8) "**Merchant**", **an owner or operator of any retail mercantile establishment, or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. A merchant includes a person who receives from an authorized user of a payment card, or an individual the person believes to be an authorized user, a payment card or information from a payment card as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything of value from the person;**

(9) "Person", any natural person or his legal representative, partnership, firm, for-profit or not-for-profit corporation, whether domestic or foreign, company, foundation, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof;

[9] (10) "Reencoder", an electronic device that places encoded information from the magnetic strip or stripe of a credit or debit card onto the magnetic strip or stripe of a different credit or debit card;

(11) "Revoked credit card", a credit card for which permission to use it has been suspended or terminated by the issuer;

(12) "Scanning device", a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a credit or debit card.

407.433. PROTECTION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS, PROHIBITED ACTIONS, PENALTY, EXCEPTIONS—EFFECTIVE DATE, APPLICABILITY.— 1. No person, other than the cardholder, shall:

(1) Disclose more than the last five digits of a credit card or debit card account number on any sales receipt for merchandise sold in this state;

(2) Use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a credit or debit card without the permission of the cardholder and with the intent to defraud any person, the issuer, or a merchant; or

(3) Use a reencoder to place information encoded on the magnetic strip or stripe of a credit or debit card onto the magnetic strip or stripe of a different card without the permission of the cardholder from which the information is being reencoded and with the intent to defraud any person, the issuer, or a merchant.

2. Any person who knowingly violates this section is guilty of an infraction and any second or subsequent violation of this section is a class A misdemeanor.

3. It shall not be a violation of subdivision (1) of subsection 1 of this section if:

(1) The sole means of recording the credit card number or debit card number is by handwriting or, prior to January 1, 2005, by an imprint of the credit card or debit card; and

(2) For handwritten or imprinted copies of credit card or debit card receipts, only the merchant's copy of the receipt lists more than the last five digits of the account number.

4. This section shall become effective on January 1, 2003, and applies to any cash register or other machine or device that prints or imprints receipts of credit card or debit card transactions and which is placed into service on or after January 1, 2003. Any cash register or other machine or device that prints or imprints receipts on credit card or debit card transactions and which is placed in service prior to January 1, 2003, shall be subject to the provisions of this section on or after January 1, 2005.

408.083. CREDIT CONTRACTS, PREPAYMENT BEFORE MATURITY, COMPUTATION OF INTEREST.— Notwithstanding any other provision of law to the contrary, all credit contracts with interest or time price differential calculated on an add-on basis entered into after August [13, 1988, with an initial term greater than sixty-one months] **28, 2002**, the proceeds of which are used for personal, family or household purposes, shall provide that the amount of interest or time price differential earned upon prepayment in full will be computed on the basis of the rate or rate formula originally contracted for on the actual unpaid principal balances for the time actually outstanding.

408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION.— 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200, RSMo, and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed [fifty] **seventy-five** dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

(6) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than fifteen dollars;

(7) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

(8) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan[.]; this [section] **subdivision** applies to nonprecomputed loans only and does not affect any other [sections] **subdivision**[.];

(9) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of the lesser of twenty-five dollars or five percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as that term is defined in section 408.120.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an

annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.170. CONTRACTS PAID IN FULL BEFORE DUE DATE — RECOMPUTATIONS OF INTEREST—REFUND DEFINED. — 1. If a note or loan contract providing for amount of interest, added to the principal of the loan is prepaid in full (by cash, renewal, or refinancing) one month or more before the final installment date, the lender shall either:

(1) Recompute the amount of interest earned to the date of prepayment in full on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding; or

(2) If the initial term of the contract is sixty-one months or less **and it is a contract for five thousand dollars or less**, give a refund of a portion of the amount of interest originally contracted for which shall be computed as follows: The amount of the refund shall be at least as great a proportion of such amount of interest as the sum of the full monthly balances of the contract scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the monthly balances of the contract, both sums to be determined according to the payment schedule provided by the contract; except that, if prepayment in full occurs during the first installment period, interest shall be recomputed and charged only for the actual number of days elapsed. When the period before the first installment is more or less than one month, the portion of the interest earned for such period shall be determined by counting each day in such period as one-thirtieth of a month and one three hundred and sixtieth of a year.

2. No refund shall be required for any partial prepayment.

3. **For a contract for more than five thousand dollars**, the word "refund" as used herein shall mean a credit or deduction from the amount of interest originally contracted for **at any time by cash, renewal or refinancing, the buyer shall receive a refund which shall be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a note or loan contract is prepaid.**

408.320. BUYER MAY PAY RETAIL TIME CONTRACT DEBT BEFORE MATURITY — REFUND OF CHARGES. — Notwithstanding the provisions of any retail time contract to the contrary, any buyer may prepay in full at any time before maturity the debt of any retail time contract and on so paying such debt shall receive a refund credit thereof for such anticipation of payments. The amount of such refund shall [represent at least as great a proportion of the time charge as the sum of the monthly time balances, beginning one month after prepayment is made, bears to the sum of all the monthly time balances under the schedule of payments in the contract after deducting from such refund an acquisition cost of twelve dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of time charge earned shall be computed to the date of prepayment on the basis of the rate originally contracted for computed on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 5 of section 408.280. Where the amount of credit is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail time contract is prepaid.**

408.510. LICENSURE OF CONSUMER INSTALLMENT LENDERS — INTEREST AND FEES ALLOWED. — Notwithstanding any other law to the contrary, the phrase "consumer installment

loans" means secured or unsecured loans of any amount and payable in not less than four substantially equal installments over a period of not less than one hundred twenty days. The phrase "consumer installment lender" means a person licensed to make consumer installment loans. A consumer installment lender shall be licensed in the same manner and upon the same terms as a lender making consumer credit loans. Such consumer installment lenders shall contract for and receive interest and fees in accordance with sections 408.100 [and], 408.140, and 408.170. Consumer installment lenders shall be subject to the provisions of sections 408.551 to 408.562.

408.556. ACTIONS ARISING FROM DEFAULT, CONTENTS OF PETITION — DEFAULT JUDGMENT REQUIRES SWORN TESTIMONY — RECOVERY OF UNPAID BALANCES. — 1. In any action brought by a lender against a borrower arising from default, the petition shall allege the facts of the borrower's default, facts sufficient to show compliance with the provisions of sections [400.9-501 to 400.9-507] **400.9-601 to 400.9-629**, RSMo, which provisions are hereby deemed applicable to all credit transactions, with respect to any sale or other disposition of collateral for the credit transaction, the amount to which the lender is entitled, and an indication of how that amount was determined.

2. A default judgment may not be entered in the action in favor of the lender unless the petition is verified by the lender, or sworn testimony, by affidavit or otherwise, is adduced showing that the lender is entitled to the relief demanded.

3. If a lender takes possession or voluntarily accepts surrender of goods in which the lender has a purchase money security interest to secure a credit transaction in the principal amount of less than five hundred dollars, the borrower is not liable to the lender for the unpaid balance.

4. Following any disposition of collateral pursuant to the provisions of [section 400.9-504] **sections 400.9-601 to 400.9-629**, RSMo, the lender shall be entitled to recover from the borrower the deficiency, if any, only if the amount financed in the transaction was more than five hundred dollars and the amount remaining unpaid at the time of default is three hundred dollars or more.

408.557. NOTICE REQUIRED BEFORE DEFICIENCY ACTION MAY BE COMMENCED. — [1.] When a lender sells or otherwise disposes of collateral in a transaction in which an action for a deficiency may be commenced against the borrower, prior to bringing any such action or upon written request of the borrower, the lender shall give the borrower the notice [described in this section. A lender gives notice to the borrower under this section when he delivers the notice to the borrower or mails the notice to him at his last known address.

2. The notice shall be in writing and conspicuously state:

(1) The name, address and telephone number of the lender to whom payment of any deficiency is to be made;

(2) An identification of the goods sold or otherwise disposed of;

(3) The date of sale or other disposition;

(4) The nature of the disposition if other than a sale, or, if a sale, whether or not the goods were sold at public auction and the name and address of the person who conducted the auction;

(5) The amount due the lender immediately prior to the disposition after deducting the amount of any refund of interest and, if known to the creditor, insurance premiums;

(6) The sale price;

(7) Expenses incurred by the lender permitted to be deducted from the sale price before application to the debt pursuant to sections 400.9-501 to 400.9-507, RSMo, itemized and identified to show the nature of each such expense; and

(8) The remaining deficiency, or surplus, as of the date of sale, computed by subtracting item (7) from item (6) and subtracting the difference so determined, if more than zero, from item (5) **provided in section 400.9-614, RSMo, for consumer goods transactions or section 400.9-613, RSMo, for all other transactions that are not consumer goods transactions.**

409.204. DENIAL, REVOCATION, SUSPENSION, CANCELLATION AND WITHDRAWAL OF REGISTRATION. — (a) The commissioner may by order deny, suspend, or revoke any registration or bar or censure any registrant or any officer, director, partner or person occupying a similar status or performing similar functions for a registrant, from employment with a registered broker-dealer or investment adviser, or restrict or limit a registrant as to any function or activity of the business for which registration is required in this state, if [he] **the commissioner** finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(A) Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(B) Has willfully violated or willfully failed to comply with any provision of sections 409.101 to 409.419 or a predecessor act or any rule or order [under] **pursuant to** sections 409.101 to 409.419 or a predecessor act;

(C) Has been convicted, within the past ten years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;

(D) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(E) Is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative;

(F) Is the subject of an adjudication or determination, after notice and opportunity for hearing, within the past ten years by a securities or commodities agency or administrator of another state or a court of competent jurisdiction that the person has willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940 or the Commodity Exchange Act, or the securities or commodities law of any other state;

(G) Has engaged in dishonest or unethical practices in the securities business;

(H) Is insolvent, either in the sense that his **or her** liabilities exceed his **or her** assets or in the sense that he **or she** cannot meet [his] obligations as they mature; but the commissioner may not enter an order against a broker-dealer or investment adviser [under] **pursuant to** this clause without a finding of insolvency as to the broker-dealer or investment adviser;

(I) Is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in subsection (b) of this section;

(J) Has failed reasonably to supervise his **or her** agents or employees if he **or she** is a broker-dealer, or [his] adviser representatives or employees if [he is] an investment adviser; for the purposes of this clause no person shall be deemed to have failed reasonably to supervise any person if there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violations by such other person, and such person has reasonably discharged the duties and obligations incumbent upon him **or her** by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with;

(K) Has failed to pay the proper filing fee; but the commissioner may enter only a denial order [under] **pursuant to** this clause, and he **or she** shall vacate any such order when the deficiency has been corrected; or

(L) Has been denied the right to do business in the securities industry, or the person's respective authority to do business in the securities industry has been revoked by any other state, federal or foreign governmental agency or self-regulatory organization for cause, or is the subject of a final order in a criminal action for securities or fraud related violations of the law of any state, federal, or foreign governmental unit, or within the last ten years the person has been the

subject of a final order in a civil, injunctive or administrative action for securities or fraud related violations of the law of any state, federal, or foreign governmental unit.

[An agent registered in Missouri transferring from one Missouri registered broker-dealer to another Missouri registered broker-dealer shall automatically have a temporary permit to transact securities business for one hundred twenty days following the date their application becomes complete and nondeficient, unless the commissioner has issued an order of denial or summary postponement under this section. The one hundred twenty-day temporary permit creates no property right for the agent or the broker dealer. During the one hundred twenty-day temporary permit the agent's application may be denied or summarily postponed under this section by the commissioner; however, if no denial or postponement has been entered during the period of the temporary permit, the agent will have a registration in Missouri. The commissioner shall have one hundred twenty days from the date of an initial or renewal registration in which to issue a revocation or suspension on the basis of a fact or transaction which was known to him when the registration became effective.]

(b) The following provisions govern the application of section 409.204(a)(2)(I):

(1) The commissioner may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than (A) the broker-dealer himself if he **or she** is an individual or (B) an agent of the broker-dealer.

(2) The commissioner may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than (A) the investment adviser himself if he is an individual or (B) an investment adviser representative.

(3) The commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both.

(4) The commissioner shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer and that an investment adviser representative who will work under the supervision of a registered investment adviser need not have the same qualifications as an investment adviser.

(5) The commissioner shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When [he] **the commissioner** finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser, [he] **the commissioner** may by order condition the applicant's registration as a broker-dealer upon [his] **the applicant** not transacting business in this state as an investment adviser.

(6) The commissioner may by rule provide for an examination, including an examination developed or approved by an organization of securities administrators, which examination may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment adviser in doing any of the acts which make him **or her** an investment adviser; provided, however, that no examination may be required of any person (1) who was registered as a broker-dealer or as an agent or who was a general partner or officer of a registered broker-dealer January 1, 1968, and (2) who has been continuously registered [under] **pursuant to** this law since that time. The commissioner may by rule or order waive the examination requirement as to a person or class of persons if the commissioner determines that the examination is not necessary for the protection of advisory clients.

(c) The commissioner may by order summarily postpone or suspend registration pending final determination of any proceeding [under] **pursuant to** this section, including a proceeding to determine the completeness of an application or where the commissioner is requesting additional information regarding the application. Upon the entry of the order, the commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative, that it has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the

commissioner. If hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the commissioner finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the commissioner may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent, investment adviser or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding [under] **pursuant to** section 409.204(a)(2)(B) within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(f) (1) If a proceeding is instituted to revoke or suspend a registration of any agent, broker-dealer [or], investment adviser [under], **or investment adviser representative pursuant to** sections 409.101 to 409.419, the commissioner shall refer the case to the administrative hearing commission. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The commissioner shall have the burden of proving a ground for suspension or revocation [under] **pursuant to** sections 409.101 to 409.419.

(2) The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases wherein a person files a petition with the commission, which petition states that the commissioner has denied any registration of any agent, broker-dealer or investment adviser [under] **pursuant to** sections 409.101 to 409.419.

(3) Upon receipt of a written complaint or petition filed pursuant to subsections (1) and (2) of this subsection (f), the administrative hearing commission shall cause a copy of the complaint or petition to be served upon the appropriate parties in person or by certified mail, together with a notice of the place of and date upon which the hearing on the complaint or petition will be held.

(4) Hearing procedures, action by the commissioner in revoking, suspending or denying any registration of any agent, broker-dealer or investment adviser hereunder, judicial review of the decisions of the commissioner and of the administrative hearing commission, and all other procedural matters hereunder shall be governed by the provisions of sections 621.015 to 621.193, RSMo.

(g) **An agent or investment adviser representative registered in this state transferring from one Missouri registered broker-dealer or investment adviser to another Missouri registered broker-dealer or investment adviser shall automatically have a temporary registration to transact securities business for thirty days following the date the application becomes complete and nondeficient, unless the commissioner has withdrawn the temporary registration or issued an order of denial or summary postponement pursuant to this section. The thirty-day temporary registration creates no property right for the agent, broker-dealer, investment adviser, or investment adviser's representative. During the thirty-day temporary registration, the agent's or investment adviser's application may be denied or summarily postponed by the commissioner pursuant to this section; however, if no denial or postponement has been entered during the period of temporary registration, the agent or investment adviser representative shall have a registration in this state. However, the registration of the transferring agent or investment adviser representative is immediately effective as of the date the new employment or association began,**

if the application contains no new or amended disciplinary disclosure within the preceding three years.

(h) The commissioner shall have one hundred twenty days from the date of an initial or renewal registration in which to institute a proceeding to revoke or suspend a registration of any agent, broker-dealer, investment adviser, or investment adviser representative because of a fact or transaction that was known by the commissioner when the registration became effective.

409.402. EXEMPTIONS. — (a) The following securities are exempted from sections 409.301 and 409.403:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized [under] **pursuant to** the laws of the United States, or any bank, savings institution, or trust company organized and supervised [under] **pursuant to** the laws of any state;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized [under] **pursuant to** the laws of any state and authorized to do business in this state;

(5) Any security issued by an agricultural cooperative corporation organized [under] **pursuant to** the laws of this state and operated as an agricultural "cooperative association" if the commissioner is notified in writing thirty days, or such shorter period of time as the commissioner may by rule or order specify, before any such security is sold or offered for sale other than in transactions exempted [under] **pursuant to** subsection (b) [hereof] **of this section**, which notification shall contain the form of prospectus or other sales literature intended to be used in connection with the offering of such security together with financial statements;

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised [under] **pursuant to** the laws of this state;

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company [under] **pursuant to** the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange or any other duly organized stock exchange approved by the commissioner by rule or order; any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association if the commissioner is notified in writing thirty days, or such shorter period of time as the

commissioner may by rule or order specify, before any such security is sold or offered for sale other than in transactions exempted [under] **pursuant to** subsection (b) [hereof] **of this section;**

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

(11) Any security offered, sold, issued, distributed or transferred in connection with an employees' stock ownership, savings, pension, profit-sharing, stock bonus, or similar benefit plan or trust (including a self-employed persons retirement plan), provided, in the case of plans or trusts which are not qualified [under] **pursuant to** section 401 of the Internal Revenue Code of 1954 and which provide for contributions by employees, if the commissioner is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on January 1, 1968, within sixty days thereafter (or within thirty days before they are reopened if they are closed on January 1, 1968). The commissioner may for good cause shown accept written notification at any time before the issuance of any such security in this state or any security offered, sold, issued, distributed or transferred in connection with an employees' stock purchase or stock option plan. In the case of issuers who do not have a class of securities registered [under] **pursuant to** section 12 of the Securities Exchange Act of 1934 the commissioner may for good cause shown accept notification in writing before the first issuance of interests or participations under a stock purchase plan or before the first exercise of options under a stock option plan.

(b) The following transactions are exempted from sections 409.301 and 409.403 except that no transaction in a certificate of interest or participation, including a limited partnership interest, in an oil, gas or mining title or lease, or in payments out of production or under such a title or lease shall be so exempted:

(1) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

(2) Any nonissuer distribution of an outstanding security if (A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order to buy if the broker-dealer acts as agent for the purchaser and receives no commission or other compensation from any source other than the purchase; but the commissioner may by rule require that the purchaser acknowledge upon a specified form that his **or her** order to buy was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this act;

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profitsharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(9) Any transaction by an issuer in a security of its own issue if immediately thereafter the total number of persons who are known to the issuer to have any direct or indirect record or beneficial interest in any of its securities (but not including persons with whom transactions have been exempted by paragraph (8) of this subsection) does not exceed twenty-five and if no commission or other remuneration is paid or given to anyone for procuring or soliciting the transaction;

(10) Any transaction by an issuer in a security of its own issue if (A) during the twelve months' period ending immediately after such transaction the issuer will have made no more than fifteen transactions exempted by this paragraph (other than transactions also exempted by paragraphs (8) and (9), and (B) the issuer reasonably believes that the buyer is purchasing for investment and the buyer so represents in writing and (C) no commission or other remuneration is paid or given to anyone for procuring or soliciting the sale; but the commissioner may by rule or order, as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase or decrease the number of prior transactions permitted by clause (A) or waive the conditions in clauses (B) or (C) with or without the substitution of a limitation on remuneration;

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if (A) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or (B) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow the exemption within the next five full business days;

(12) Any offer (but not a sale) of a security for which registration statements have been filed [under] **pursuant to** both this act and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending [under] **pursuant to** either act;

(13) Any nonissuer transaction by a person who does not control, or who is not controlled by or under common control with, the issuer in a security which has been (and securities which are of the same class as securities of the same issuer which have been) either registered for sale [under] **pursuant to** the laws of this state regulating the sale of securities or lawfully sold in this state as a security exempt from such registration;

(14) Any nonissuer transaction in a security which at the time of such transaction would be eligible for registration by notification;

(15) Any nonissuer transaction by a person who does not control, and is not controlled by or under common control with, the issuer if (i) the transaction is at a price reasonably related to the current market price, and (ii) the security is registered with the Securities and Exchange Commission [under] **pursuant to** section 12 of the Securities Exchange Act of 1934 and the issuer files reports with the Securities and Exchange Commission pursuant to section 13 of that act;

(16) Any patronage distributions of an agricultural cooperative corporation received by a patron or member in the form of capital stock, revolving fund certificate, retain certificate, certificate of indebtedness, letter of advice, or other written notice.

(c) The commissioner may by rule or order exempt from sections 409.301 and 409.403 any other transaction not exempted in subsection (b), and may by order withdraw or condition the exemption as [he] **the commissioner** deems necessary in the public interest.

(d) The commissioner may by order deny or revoke any exemption specified in clause (9) or (11) of subsection (a) or in subsection (b) with respect to a specific security or transaction. No

such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding [under] **pursuant to** this subsection. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order [under] **pursuant to** this subsection may operate retroactively. No person may be considered to have violated section 409.301 or 409.403 by reason of any offer or sale effected after the entry of an order [under] **pursuant to** this subsection if he **or she** sustains the burden of proof that he **or she** did not know, and in the exercise of reasonable care could not have known, of the order.

(e) The commissioner may by order after a hearing deny or revoke any exemption for a security issued by an agricultural cooperative corporation not qualifying [under] **pursuant to** clause (5) of subsection (a).

(f) In any proceeding [under] **pursuant to** this act, the burden of proving an exemption, **qualification as a federal covered security**, or an exception from a definition is upon the person claiming it.

(g) A person required to file for an exemption [under] **pursuant to** this section shall pay a fee not to exceed one hundred dollars.

417.210. REGISTRATION, WHEN AND HOW — REREGISTRATION. — 1. Every person, general partnership, corporation, or other business organization who engages in business in this state under a fictitious name or under any name other than the true name of such person, general partnership, corporation, or other business organization shall, within five days after the beginning or engaging in business under such fictitious name, [register by verified statement of all parties concerned,] **execute the form required in this section, and shall be subject to the penalties of making a false declaration pursuant to section 575.060, RSMo, that the facts stated therein are true and that all parties concerned are duly authorized to execute such document and are otherwise required to file such document pursuant to this section** upon [blanks] **fictitious name forms** furnished by the secretary of state, such partnership or other fictitious name in the office of the secretary of state, together with the name or names and the residence of each and every person, partnership, corporation, or other business organization interested in or owning any part of the business; provided, that if the interest of any owner shall cease to exist, or any other person, partnership, corporation, or other entity shall become an owner, such fictitious name shall be reregistered within five days after any such change shall take place in the ownership of the business or any part thereof as set forth in the original registration, and such reregistration shall in all respects be made as in the case of an original registration of such fictitious name; provided, that the provisions of this section shall not apply to farmers' mutual insurance companies nor farmers' mutual telephone companies.

2. If the interest of any owner of a business conducted under a fictitious name registered as provided in this section is such that such owner may claim not to be jointly and severally liable to third parties with respect to debts and obligations incurred by such business, the registration relating to such business shall reflect the respective exact ownership interests of each owner of such business. In the case of any other business registered as provided in this section, disclosure of the respective exact ownership interests shall be optional.

3. For purposes of this section, a partnership or other entity formed for the practice of a licensed profession shall not be deemed to be engaged in the conduct of business, notwith-

standing the transaction by such entity of business ancillary to the practice of such licensed profession.

454.507. FINANCIAL INSTITUTIONS, DIVISION MAY REQUEST INFORMATION, WHEN, FEES — DEFINITIONS — DATA MATCH SYSTEM — NOTICE OF LIEN. — 1. In addition to the authority of the division to request information pursuant to section 454.440, the division may request information from financial institutions pursuant to this section.

2. As used in this section:

(1) "Account" includes a demand deposit, checking or negotiable withdrawal order account, savings account, time deposit account or money market mutual fund account;

(2) "Encumbered assets", the noncustodial parent's interest in an account which is encumbered by a lien arising by operation of law or otherwise;

(3) "Financial institution" includes:

(a) A depository institution as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. section 1813(c));

(b) An institution affiliated party as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. section 1813(u));

(c) Any federal credit union or state credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. section 1752), including an institution affiliated party of such a credit union as defined in section 206(r) of the Federal Credit Union Act (12 U.S.C. section 1786(r)); or

(d) Any benefit association, insurance company, safe deposit company, money market fund or similar entity authorized to do business in the state.

3. The division shall enter into agreements with financial institutions to develop and operate a data match system which uses automated exchanges to the maximum extent feasible. Such agreements shall require the financial institution, to provide to the division, for each calendar quarter, the name, record address, Social Security number or other taxpayer identification number, and other identifying information of each noncustodial parent who maintains an account at such institution and who owes past due support, as identified by the division by name and Social Security number or other taxpayer identification number. The financial institution shall only provide such information stated in this subsection that is readily available through existing data systems, and as such data systems are enhanced, solely at the financial institution's discretion and for its business purposes, the financial institution shall provide any original and additional information which becomes readily available for any new data match request.

4. The division shall pay a reasonable fee to the financial institution for conducting the data match pursuant to this section, but such amount shall not exceed the costs incurred by the financial institution.

5. The division [of] or a IV-D agency may issue liens against any account in a financial institution and may release such liens.

6. **(1)** If a notice of lien is received from the division or a IV-D agency, the financial institutions shall immediately encumber the assets held by such institution on behalf of any noncustodial parent who is subject to such lien. However, if the account is in the name of a noncustodial parent and such parent's spouse **or parent**, the financial institution at its discretion may not encumber the assets and when it elects not to encumber such assets, shall so notify the division or IV-D agency. The amount of assets to be encumbered shall be stated in the notice and shall not exceed the amount of unpaid support due at the time of issuance. [The financial institution shall, within five business days of receipt of such notice, mail a copy of the notice of lien to the noncustodial parent and any other person named on the account at the address shown in the records of the financial institution.] **The financial institution shall, within ten business days of receipt of a notice of lien, notify the division or IV-D agency of the financial institution's response to the notice of lien.**

(2) Within ten business days of notification by the financial institution that assets have been encumbered, the division or IV-D agency shall notify by mail the noncustodial parent of the issuance of the lien and the reasons for such issuance. The notice shall advise the noncustodial parent of the procedures to contest such lien pursuant to section 454.475 by requesting a hearing within thirty days from the date the notice was mailed by the division to the noncustodial parent.

7. (1) Except as provided in subsection 6 of this section, the interest of the noncustodial parent shall be presumed equal to all other joint owners, unless at least one of the joint owners provides the division or IV-D agency with a true copy of a written agreement entered prior to the date of issuance of notice of lien, or other clear and convincing evidence regarding the various ownership interests of the joint owners within twenty days of the financial institution's mailing of the notice of lien. The financial institution shall only encumber the amount presumed to belong to the noncustodial parent. The division or IV-D agency may proceed to issue an order for the amount in the account presumed to belong to the noncustodial parent if no prior written agreement or other evidence is provided.

(2) If a prior written agreement or other clear and convincing evidence is furnished to the division, and based on such agreement or evidence the division or IV-D agency determines that the interest of the noncustodial parent is less than the presumed amount, the division or IV-D agency shall amend the lien to reflect the amount in the account belonging to the noncustodial parent or shall release the lien if the noncustodial parent has no interest in the account. In no event shall the division or IV-D agency obtain more than the presumed amount of the account without a judicial determination that a greater amount of the account belongs to the noncustodial parent. The division or IV-D agency may by levy and execution on a judgment in a court of competent jurisdiction seek to obtain an amount greater than the amount presumed to belong to the noncustodial parent upon proof that the noncustodial parent's interest is greater than the amount presumed pursuant to this subsection.

(3) For purposes of this subsection, accounts are not joint accounts when the noncustodial parent has no legal right to the funds, but is either a contingent owner or agent. Such nonjoint accounts shall include, but are not limited to, a pay-on-death account or any other account in which the noncustodial parent owner may act as agent by a power of attorney or otherwise. Furthermore, when any account naming the noncustodial parent has not been disclosed to the noncustodial parent which is evidenced by a signature card or other deposit agreement not containing the signature of such noncustodial parent, then for the purposes of this subsection, such account shall not be treated as a joint account.

(4) Notwithstanding any other provision of this section, a financial institution shall not encumber any account of less than one hundred dollars.

8. Upon service of an order to surrender issued pursuant to this section, any financial institution in possession of a jointly owned account may interplead such property as otherwise provided by law.

9. Any other joint owner may petition a court of competent jurisdiction for a determination that the interests of the joint owners are disproportionate. The party filing the petition shall have the burden of proof on such a claim. If subject to the jurisdiction of the court, all persons owning affected accounts with a noncustodial parent shall be made parties to any proceeding to determine the respective interests of the joint owners. The court shall enter an appropriate order determining the various interests of each of the joint owners and authorizing payment against the obligor's share for satisfaction of the child support or maintenance obligation.

10. The court may assess costs and reasonable attorney's fees against the noncustodial parent if the court determines that the noncustodial parent has an interest in the affected joint account.

11. The division may order the financial institution to surrender all or part of the encumbered assets. The order shall not issue until sixty days after the notice of lien is sent to the

financial institution. The financial institution shall, within seven days of receipt of the order, pay the encumbered amount as directed in the order to surrender.

12. A financial institution shall not be liable pursuant to any state or federal law, including 42 U.S.C. section 669A, to any person for:

- (1) Any disclosure of information to the division pursuant to this section;
- (2) Encumbering or surrendering any assets held by the financial institution in response to a lien or order pursuant to this section and notwithstanding any other provisions in this section to the contrary, encumbering or surrendering assets from any account in the financial institution connected in any way to the noncustodial parent; or
- (3) Any other action taken in good faith to comply with the requirements of this section.

13. A financial institution that fails without due cause to comply with a notice of lien or order to surrender issued pursuant to this section shall be liable for the amount of the encumbered assets and the division may bring an action against the financial institution in circuit court for such amount. For purposes of this subsection, "due cause" shall include, but not be limited to, when a financial institution demonstrates to a court of competent jurisdiction that the institution established in good faith a routine to comply with the requirements of this section and that one or more transactions to enforce the lien or order to surrender were not completed due to an accidental error, a misplaced computer entry, or other accidental human or mechanical problems.

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] such 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 datebank, 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] **any satisfaction of the registered lien** until the child support obligation is satisfied, or levy and execute on the motor vehicle, motor boat, outboard motor, manufactured home or trailer and sell same, at public sale, in order to satisfy the debt. [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.] 7. In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this section the obligee or the obligee's attorney shall file notice of the lien with the [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.

8. Notwithstanding any other law to the contrary, the department of revenue shall maintain a child support lien database for outstanding child support liens against the owner's certificate of ownership provided for by chapters 301, 306, and 700, RSMo. To determine any existing liens for child support pursuant to this section, the lienholder, dealer, or buyer may inquire electronically into the database. A good faith purchaser for value without notice of the lien in the database or a lender without notice of the lien in the database takes free of the lien.

525.070. GARNISHEE MAY DISCHARGE HIMSELF, HOW. — Whenever any property, effects, money or debts, belonging or owing to the defendant, shall be confessed, or found by the court or jury, to be in the hands of the garnishee, [he] **the garnishee** may, at any time before final judgment, discharge himself, by paying or delivering the same, or so much thereof as the court shall order, to the sheriff **or to the court**, from all further liability on account of the property, money or debts so paid or delivered.

541.155. FRAUDULENT USE OF A CREDIT DEVICE, WHERE PROSECUTED. — **Any person charged with fraudulent use of a credit device, or any stealing offense in which another person's credit card number, check, or checking account number was fraudulently used for the purpose of obtaining property or services of another, shall be prosecuted:**

- (1) **In the county in which the offense is committed; or**
- (2) **If the offense is committed partly in one county and partly in another, or if the elements of the offense occur in more than one county, then in any of the counties where any element of the offense occurred; or**
- (3) **In the county in which the defendant resides; or**
- (4) **In the county in which the victim resides; or**

(5) In the county in which the property obtained or attempted to be obtained was located.

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; or

(4) Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels said charges or payment without just cause. It shall be prima facie evidence of a violation of this section if a person cancels said charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri department of revenue.

2. Fraudulent use of a credit device or debit device is a class A misdemeanor unless the value of the **property tax or the value of the property** or services obtained or sought to be obtained within any thirty-day period is one hundred fifty dollars or more, in which case fraudulent use of a credit device or debit device is a class D felony.

575.060. FALSE DECLARATIONS. — 1. A person commits the crime of making a false declaration if, with the purpose to mislead a public servant in the performance of his duty, he:

- (1) Submits any written false statement, which he does not believe to be true
 - (a) In an application for any pecuniary benefit or other consideration; or
 - (b) On a form bearing notice, authorized by law, that false statements made therein are punishable; or
- (2) Submits or invites reliance on
 - (a) Any writing which he knows to be forged, altered or otherwise lacking in authenticity;

or

(b) Any sample, specimen, map, boundary mark, or other object which he knows to be false.

2. The falsity of the statement or the item under subsection 1 of this section must be as to a fact which is material to the purposes for which the statement is made or the item submitted; and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under subsection 1 of this section.

3. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement or item but this defense shall not apply if the retraction was made after:

- (1) The falsity of the statement or item was exposed; or
- (2) The public servant took substantial action in reliance on the statement or item.

4. The defendant shall have the burden of injecting the issue of retraction under subsection 3 of this section.

5. For the purpose of this section, "written" shall include filings submitted in an electronic or other format or medium approved or prescribed by the secretary of state.

6. Making a false declaration is a class B misdemeanor.

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 received 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 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 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. As used in this section, "electronic certificate of ownership" means any electronic record of ownership 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 of revenue 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 except as otherwise provided by law**, 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.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of section 375.018, as enacted by house committee substitute for senate substitute for senate bill no. 193, ninety-first general assembly, first regular session, and the repeal of section 375.018 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 709, eighty-seventh general assembly, first regular session, shall become effective January 1, 2003.

SECTION C. EFFECTIVE DATE. — The repeal and reenactment of sections 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.415, 306.420, 306.430, 306.440, 364.120, 365.140, 385.050, 408.083, 408.170, 408.320, 454.516, 700.355, 700.360, 700.365, 700.370, and 700.380 of section A of this act shall become effective July 1, 2003.

Approved July 11, 2002

SB 915 [CCS HS SCS SB 915, 710 & 907]

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

Raises motor fuel tax and sales tax and diverts other revenues to fund transportation projects.

AN ACT to repeal sections 142.803, 144.020, 144.021, 144.440, 144.700 and 226.200, RSMo, relating to measures to increase funding for transportation, and to enact in lieu thereof eight new sections relating to the same subject, with a referendum clause, effective date and a contingent termination date for certain sections.

SECTION

- A. Enacting clause.
 - 142.803. Imposition of tax on fuel, amount — collection and precollection of tax.
 - 144.020. Rate of tax — tickets, notice of sales tax — lease or rental of personal property exempt from tax, when.
 - 144.021. Imposition of tax — seller's duties.
 - 144.440. Use tax on purchased or leased motor vehicles, trailers, boats and outboard motors — option of lessor, effect of.
 - 144.700. Revenue placed in general revenue, exception placement in school district trust fund — payment under protest, procedure, appeal, refund.
 - 226.094. Inspector general position established in department of transportation, duties, powers.
 - 226.200. State highways and transportation department fund — sources of revenue — expenditures.
 - 226.1000. Distribution and use of certain additional tax revenues on fuel and property.
- B. Referendum clause.
- C. Additional tax revenues for certain property not part of total state revenue or an expense of state government.
- D. Decennial referendum required for certain additional tax revenues for transportation, effect of vote.

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

SECTION A. ENACTING CLAUSE. — Sections 142.803, 144.020, 144.021, 144.440, 144.700 and 226.200, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 142.803, 144.020, 144.021, 144.440, 144.700, 226.094, 226.200 and 226.1000, to read as follows:

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] **Beginning on the effective date of this act, the motor fuel tax rate shall be twenty-one 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.

144.020. RATE OF TAX — TICKETS, NOTICE OF SALES TAX — LEASE OR RENTAL OF PERSONAL PROPERTY EXEMPT FROM TAX, WHEN. — 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

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

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

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

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

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

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

(7) A tax equivalent to four **and one-half** percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four **and one-half** percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" as defined in subdivision [(8)] (10) of section 144.010 or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in this section and section 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

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

144.021. IMPOSITION OF TAX—SELLER'S DUTIES. — The purpose and intent of sections 144.010 to [144.510] **144.525** is to impose a tax upon the privilege of engaging in the business, in this state, of selling tangible personal property and those services listed in section 144.020. The primary tax burden is placed upon the seller making the taxable sales of property or service and is levied at the rate provided for in section 144.020. Excluding sections 144.070, 144.440 and 144.450, the extent to which a seller is required to collect the tax from the purchaser of the taxable property or service is governed by section 144.285 and in no way affects sections 144.080 and 144.100, which require all sellers to report to the director of revenue their "gross receipts", defined herein to mean the aggregate amount of the sales price of all sales at retail, and remit tax at four **and one-half** percent of their gross receipts.

144.440. USE TAX ON PURCHASED OR LEASED MOTOR VEHICLES, TRAILERS, BOATS AND OUTBOARD MOTORS — OPTION OF LESSOR, EFFECT OF. — 1. In addition to all other taxes now or hereafter levied and imposed upon every person for the privilege of using the highways or waterways of this state, there is hereby levied and imposed a tax equivalent to four **and one-half** percent of the purchase price, as defined in section 144.070, which is paid or charged on new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be registered under the laws of the state of Missouri.

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

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

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

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

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

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

144.700. REVENUE PLACED IN GENERAL REVENUE, EXCEPTION PLACEMENT IN SCHOOL DISTRICT TRUST FUND — PAYMENT UNDER PROTEST, PROCEDURE, APPEAL, REFUND. — 1.

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

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

(2) **Twenty percent of the revenue derived from the rate of one-half cent on the dollar of the tax imposed by this act shall be deposited in the state transportation fund to be used for transportation purposes other than highways, as provided in section 226.225, RSMo. Thirty-three percent of this amount shall be used exclusively for capital improvements, excluding the operational costs, of public transportation facilities or projects authorized by section 226.225, RSMo;**

(3) Two percent of the revenue derived from the rate of one-half cent on the dollar of the tax imposed by this act shall be deposited, in an equal amount, to the Missouri qualified fuel ethanol producer incentive fund and to the Missouri qualified biodiesel producer incentive fund, as established in chapter 142, RSMo, if existing. If not existing, then the full two percent shall be deposited in the Missouri qualified fuel ethanol producer incentive fund;

(4) Seventy-eight percent of the revenue derived from the rate of one-half cent on the dollar imposed by this act shall be deposited in the state road fund as established in section 226.220, RSMo; and

(5) All of the revenue derived from the additional sales tax rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles shall be held and distributed in the manner provided by section 226.1000, RSMo.

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

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

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

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

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

226.094. INSPECTOR GENERAL POSITION ESTABLISHED IN DEPARTMENT OF TRANSPORTATION, DUTIES, POWERS. — 1. The position of inspector general is hereby officially established within the department of transportation. The inspector general shall be subject to appointment by the director and shall report to and be under the general supervision of the director. However, the commission may request the inspector general to perform specific investigations, reviews, or other studies. The inspector general shall file an annual report with the joint committee on transportation oversight. Such report shall be available for public inspection.

2. In addition to any duties which may be assigned to the inspector general by the director, it shall be the duty of the inspector general to:

- (1) Promote economy, efficiency, effectiveness, and public integrity in the administration of the programs and operations of the department;
- (2) Detect and prevent fraud, waste, and abuse in programs and operations;
- (3) Conduct and supervise investigations and reviews relating to department of transportation programs and operations;
- (4) Provide independent and objective assistance to help assure the department is operated in compliance with the constitutions and laws of the United States and the state of Missouri; and
- (5) Keep the commission, the director, and the director's staff fully and currently informed about any problems or deficiencies relating to the administration of department programs and operations and the necessity for and progress of any corrective actions taken.

3. To accomplish the duties of the inspector general, the inspector general may investigate, conduct reviews, or perform audits relating to the use of highway user fees and taxes by the department of transportation, the department of revenue, the office of administration, and the state highway patrol. The accounts and records of the department of transportation, the state highway patrol, the office of administration, the department of revenue and other parties which use or receive taxes or fees derived from highway users as an incident to their use or right to use the highways of this state shall be open to inspection and review by the inspector general, for the purpose of obtaining information necessary in the performance of the duties of the inspector general. The inspector general shall have the power to subpoena witnesses or obtain the production of records when necessary for the performance of the inspector general's duties. The inspector general may also investigate and review any contract entered into by the department of transportation and any other party to determine compliance with federal and state law.

4. To accomplish the duties assigned to the inspector general, the inspector general shall maintain records of all investigations conducted by the inspector general, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. All such records shall be considered open records pursuant to the provisions contained in section 610.010, RSMo. Any records detained above which are prepared by the inspector general in conjunction with an investigation into a crime or suspected crime, or an investigation into an action that violates a civil law of this state, may be closed within the office of the inspector general during the investigation thereof of the matter until the matter becomes inactive, which shall be defined as an investigation in which no further action will be taken by the inspector general because it has decided not to pursue the case; expiration of the time to file criminal charges or civil suit or ten years after the commission of the act, whichever date earliest occurs; or finality of the conviction of all persons convicted on the basis of the information contained in the investigative report or termination of all civil action involving the information contained in the investigative report, by the exhaustion of or expiration of all rights of appeal by such person. All records not specifically closed by the above provisions shall be deemed to be an open record except as otherwise provided by subdivision (13) of section 610.021, 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,] The total amount of appropriations from the state highways and transportation department fund for all state offices [and], departments **and elective offices, except for the highway patrol; the department of revenue for actual costs of collecting taxes and fees derived from highway users as an incident to their use or right to use the highways of this state; and actual costs incurred by the office of administration for or on behalf of the highway patrol and employees of the department of revenue for actual collection costs as described in this subsection** shall [not exceed the total amount appropriated for such offices and departments from said fund for fiscal year 2001] **be zero beginning the first fiscal year following voter approval of this act and for all fiscal years thereafter. 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. The inspector general, as established in section 226.094, is authorized to conduct an audit of the state highways and transportation department fund to ensure compliance with this section.**

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.]

226.1000. DISTRIBUTION AND USE OF CERTAIN ADDITIONAL TAX REVENUES ON FUEL AND PROPERTY. — 1. One-half of all of the revenue derived from the additional rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles shall be dedicated for highway and transportation use and distributed pursuant to subsection 2 of section 30(b) of article IV of the Missouri Constitution.

2. Beginning on the effective date of this act, all of the remaining revenue derived from the additional sales tax rate of one-half cent on the dollar imposed by this act on all motor vehicles, trailers, motorcycles, mopeds and motortricycles, which is not distributed pursuant to subsection 1 of this section, shall be distributed as follows:

(1) Twenty percent shall be deposited in the state transportation fund to be used for transportation purposes other than highways, as provided in section 226.225, RSMo. Thirty-three percent of this amount shall be used exclusively for capital improvements, excluding the operational costs, of public transportation facilities or projects authorized by section 226.225, RSMo;

(2) Two percent shall be deposited, in an equal amount, to the Missouri qualified fuel ethanol producer incentive fund and to the Missouri qualified biodiesel producer incentive fund, as established in chapter 142, RSMo, if existing. If not existing, then the full two percent shall be deposited in the Missouri qualified fuel ethanol producer incentive fund; and

(3) Seventy-eight percent shall be deposited in the state road fund as established in section 226.220, RSMo.

SECTION B. REFERENDUM CLAUSE. — This act is hereby submitted to the qualified voters of this state for approval or rejection at a special election which is hereby ordered and which shall be held and conducted on the first Tuesday in August, 2002, pursuant to the laws and constitutional provisions of this state applicable to general elections, and this act shall become effective on the first day of January after the provisions of this act have been approved by a majority of the votes cast thereon at such election and not otherwise.

SECTION C. ADDITIONAL TAX REVENUES FOR CERTAIN PROPERTY NOT PART OF TOTAL STATE REVENUE OR AN EXPENSE OF STATE GOVERNMENT. — The additional revenue provided by sections 144.020, 144.021, 144.440, 144.700 and 226.1000 of this act shall not be part of the "total state revenue" within the meaning of sections 17 and 18 of article X of the Missouri Constitution. The expenditure of this revenue shall not be an "expense of state government" under section 20 of article X of the Missouri Constitution.

SECTION D. DECENNIAL REFERENDUM REQUIRED FOR CERTAIN ADDITIONAL TAX REVENUES FOR TRANSPORTATION, EFFECT OF VOTE. — At the general election on the Tuesday next following the first Monday in November, 2012, the secretary of state shall submit to the electors of this state the question "Shall the additional revenues for transportation be renewed and extended?". If a majority of the votes cast thereon is for the affirmative the additional revenues shall be continued. If a majority of the votes cast thereon is for the negative, the rates included in sections 144.020, 144.021, 144.440, 144.700 and 226.1000 directing deposit and use of revenues pursuant to this act shall expire on July first following the election and return to the provisions in effect on January 1, 2002. If a majority of the votes cast thereon is for the

negative, the motor fuel tax rate provided for in section 142.803 shall expire on July first following the election and return to seventeen cents per gallon.

Referendum — Subject to Voter Approval August 6, 2002

SB 918 [SCS SB 918]

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

Exempts displays of the U.S. flag from statutes and ordinances.

AN ACT to amend chapter 71, RSMo, by adding thereto one new section relating to the display of the United States flag.

SECTION

- A. Enacting clause.
71.286. Display of the United States flag, political subdivisions not to regulate.

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

SECTION A. ENACTING CLAUSE.— Chapter 71, RSMo, is amended by adding thereto one new section, to be known as section 71.286, to read as follows:

71.286. DISPLAY OF THE UNITED STATES FLAG, POLITICAL SUBDIVISIONS NOT TO REGULATE.— **Notwithstanding any other provision of the law to the contrary, no state law, city, town or village ordinance shall regulate the exhibition of a properly displayed United States flag. For the purposes of this section, the term "properly displayed" shall mean that the flag contains no additional design or embellishment and is displayed consistent with the provisions of Title 4 U.S.C. Sections 1-10, pursuant to the normally accepted guidelines for the display of the United States flag.**

Approved July 3, 2002

SB 923 [CCS HS HCS SS SCS SB 923, 828, 876, 694 & 736]

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

Provides foster parent rights and responsibilities.

AN ACT to repeal sections 28.160, 135.327, 191.227, 191.233, 191.925, 192.016, 210.001, 210.115, 210.145, 210.201, 210.906, 211.031, 211.181, 294.011, 294.024, 294.030, 294.043, 294.060, 294.090, 294.121, 294.141, 452.402, 453.030, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, RSMo, and to enact in lieu thereof thirty-two new sections relating to children and families, with penalty provisions.

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.
- 135.327. Special needs child adoption tax credit — nonrecurring adoption expenses, amount — business entities tax credit, amount — assignment of tax credit, when.
- 191.227. Medical records to be released to patient, when, exception — fee permitted, amount — liability of provider limited — annual handling fee adjustment.
- 191.925. Screening for hearing loss, infants, when — procedures used — exemptions — information provided, by whom — no liability, when.
- 192.016. Putative father registry.
- 208.344. Welfare reform, progress report to be submitted annually by division, content — expiration.
- 210.001. Department of social services to meet needs of homeless, dependent and neglected children — only certain regional child assessment centers funded.
- 210.115. Reports of abuse, neglect, and under age eighteen deaths — persons required to report — deaths required to be reported to the division or child fatality review panel, when — report made to another state, when.
- 210.145. Telephone hot line for reports on child abuse — division of family services, duties, protocols, law enforcement contacted immediately, investigation within twenty-four hours, exception — chief investigator named — admissibility of reports in custody cases.
- 210.201. Definitions.
- 210.566. Foster parents' bill of rights.
- 210.906. Registration form, contents — violation, penalty — fees — voluntary registration permitted, when.
- 210.1007. List of children's products to be furnished to all child-care facilities by department — disposal of unsafe products — inspections by department — rulemaking authority.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions.
- 211.181. Order for disposition or treatment of child — suspension of order and probation granted, when — community organizations, immunity from liability, when — length of commitment may be set forth — assessments, deposits, use.
- 294.011. Definitions.
- 294.024. Employment of children, work certificate required.
- 294.030. Hours of work for minors.
- 294.043. Employment in street occupation prohibited, exceptions.
- 294.060. Work certificates or work permits transmitted to employer, return to officer, reissue, record.
- 294.090. Director of division of labor standards to enforce — rights, duties — record keeping required — cancellation of work certificate or work permit.
- 294.121. Administrative penalties, civil damages, grounds, duties of director, notice, judicial review.
- 294.141. Notice of transmissions by division.
- 352.400. Ministers, duty to report child abuse and neglect — definitions — designation of an agent.
- 452.402. Grandparent's visitation rights granted, when, terminated, when — guardian ad litem appointed, when — attorney fees and costs assessed, when.
- 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.
- 454.606. Notice to employer or union, National Medical Support Notice to be used — division duties.
- 454.609. Notice to obligor, contents — grounds for contesting, hearing.
- 454.615. Employer or union to transfer order to group health plan — duties of plan administrator.
- 454.618. Enrolling of child as eligible dependent in health benefit plan, withholding of contributions — provision of information and authorization — denial or restriction of coverage, prohibited, when.
- 454.627. Termination of obligor's employment or coverage, notification of obligee.
- 454.700. Insurer to permit enrollment, when — duties of employer — garnishment of income permitted, when.
- 191.233. Medical records, fee increased or decreased, when.

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

SECTION A. ENACTING CLAUSE. — Sections 28.160, 135.327, 191.227, 191.233, 191.925, 192.016, 210.001, 210.115, 210.145, 210.201, 210.906, 211.031, 211.181, 294.011, 294.024, 294.030, 294.043, 294.060, 294.090, 294.121, 294.141, 452.402, 453.030, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 28.160, 135.327, 191.227, 191.925, 192.016, 208.344, 210.001, 210.115, 210.145, 210.201, 210.566, 210.906, 210.1007, 211.031, 211.181, 294.011, 294.024, 294.030, 294.043, 294.060, 294.090, 294.121, 294.141, 352.400, 452.402, 453.030, 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, 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 often 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.

135.327. SPECIAL NEEDS CHILD ADOPTION TAX CREDIT — NONRECURRING ADOPTION EXPENSES, AMOUNT — BUSINESS ENTITIES TAX CREDIT, AMOUNT — ASSIGNMENT OF TAX CREDIT, WHEN. — 1. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may

be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers for nonrecurring adoption expenses in any one fiscal year shall not exceed two million dollars.

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section [to a for-profit entity] shall be at a discount rate of seventy-five percent or greater of the amount sold.

191.227. MEDICAL RECORDS TO BE RELEASED TO PATIENT, WHEN, EXCEPTION — FEE PERMITTED, AMOUNT — LIABILITY OF PROVIDER LIMITED — ANNUAL HANDLING FEE ADJUSTMENT. — 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called "providers", shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his record of that patient's health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient's condition and sound therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt of the request therefor and upon payment of a handling fee of fifteen dollars plus a fee of thirty-five cents per page for copies of documents made on a standard photocopy machine.

2. Notwithstanding provisions of this section to the contrary, providers may charge for the reasonable cost of all duplications of medical record material or information which cannot routinely be copied or duplicated on a standard commercial photocopy machine.

3. The transfer of the patient's record done in good faith shall not render the provider liable to the patient or any other person for any consequences which resulted or may result from disclosure of the patient's record as required by this section.

4. **Effective February first of each year, the handling fee and per page fee listed in subsection 1 of this section shall be increased or decreased annually based on the annual percentage change in the unadjusted, U.S. city average, annual average inflation rate of the medical care component of the Consumer Price Index for all urban consumers (CPI-U). The current reference base of the index, as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be used as the reference base. For purposes of this subsection, the annual average inflation rate shall be based on a**

twelve-month calendar year beginning in January and ending in December of each preceding calendar year. The department of health and senior services shall report the annual adjustment and the adjusted handling and per page fees on the department's Internet website by February first of each year.

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.

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 conse-

quences 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.

208.344. WELFARE REFORM, PROGRESS REPORT TO BE SUBMITTED ANNUALLY BY DIVISION, CONTENT — EXPIRATION. — 1. By December 1, 2002, and annually thereafter, the division of family services shall submit a report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives regarding the progress of welfare reform in Missouri. The report shall include, but not be limited to, current statistics and recommendations regarding:

(1) **Individuals who have successfully left welfare and employment of such individuals;**

(2) **Individuals who remain on or have returned to welfare; and**

(3) **Benefits of welfare reform realized by families, employers, and the state.**

2. The provisions of this section shall expire on December 31, 2007.

210.001. DEPARTMENT OF SOCIAL SERVICES TO MEET NEEDS OF HOMELESS, DEPENDENT AND NEGLECTED CHILDREN — ONLY CERTAIN REGIONAL CHILD ASSESSMENT CENTERS FUNDED. — 1. The department of social services shall address the needs of homeless, dependent and neglected children in the supervision and custody of the division of family services and to their families-in-conflict by:

(1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child;

(2) Insuring that appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification;

(3) Developing and implementing preventive and early intervention social services which have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic.

2. The department of social services shall fund only regional child assessment centers known as:

(1) The St. Louis City child assessment center;

(2) The St. Louis County child assessment center;

(3) The Jackson County child assessment center;

(4) The Buchanan County child assessment center;

(5) The Greene County [and Lakes Area] child assessment center;

(6) The Boone County child assessment center;

(7) The Joplin child assessment center;

(8) The St. Charles County child assessment center;

(9) The Jefferson County child assessment center;

(10) The Pettis County child assessment center; [and]

(11) The southeast Missouri child assessment center;

(12) The Camden County child assessment center;

(13) The Clay-Platte County child assessment center; and

(14) The Lakes Area child assessment center.

210.115. REPORTS OF ABUSE, NEGLECT, AND UNDER AGE EIGHTEEN DEATHS — PERSONS REQUIRED TO REPORT — DEATHS REQUIRED TO BE REPORTED TO THE DIVISION OR CHILD FATALITY REVIEW PANEL, WHEN — REPORT MADE TO ANOTHER STATE, WHEN.

— 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, **minister as provided by section 352.400, RSMo**, Christian Science practitioner, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of sections 210.109 to 210.183. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. Whenever such person is required to report pursuant to sections 210.109 to 210.183 in an official capacity as a staff member of a medical institution, school facility, or other agency, whether public or private, the person in charge or a designated agent shall be notified immediately. The person in charge or a designated agent shall then become responsible for immediately making or causing such report to be made to the division. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

4. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

5. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452, RSMo, and shall report the findings to the child fatality review panel established pursuant to section 210.192.

6. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting or causing a report to be made to the division.

7. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri division of family services, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the Missouri division of family services.

210.145. TELEPHONE HOT LINE FOR REPORTS ON CHILD ABUSE — DIVISION OF FAMILY SERVICES, DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION WITHIN TWENTY-FOUR HOURS, EXCEPTION — CHIEF INVESTIGATOR NAMED — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1. The division shall establish and maintain an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. Upon receipt of a report, the division shall immediately communicate such report to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

3. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to commit any such crimes. The local office shall provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

4. The local office of the division shall cause an investigation or family assessment and services approach to be initiated immediately or no later than within twenty-four hours of receipt of the report from the division, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. **If the parents of the child are not the alleged abusers, the parents of the child must be notified prior to the child being interviewed by the division. The division shall not meet with the child in any location where abuse of such child is alleged to have occurred.** When the child is reported absent from the residence, the location and the well-being of the child shall be verified.

5. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or

subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The [public school district liaison shall be designated by the superintendent of each school district] **superintendent of each school district shall designate a specific person or persons to act as the public school district liaison.** Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. **Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.**

6. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

7. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

8. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

9. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

10. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

11. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109

to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

12. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

13. A person required to report under section 210.115 to the division shall be informed by the division of his right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. A person required to report to the division pursuant to section 210.115 may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the mandated reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the mandated reporter within five days of the outcome of the investigation.

14. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However, nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made.

15. **In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.**

16. The division of family services is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

[16.] 17. 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.

210.201. DEFINITIONS. — As used in sections 210.201 to 210.257, the following terms mean:

- (1) "Child", an individual who is under the age of seventeen;
- (2) "Child care facility", a house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than four children during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment **which provides child care** as a convenience for its customers **or its employees for no more than four hours per day**, but a child care facility shall not include any

private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization;

(3) "Person", any person, firm, corporation, association, institution or other incorporated or unincorporated organization;

(4) "Religious organization", a church, synagogue or mosque; an entity that has or would qualify for federal tax exempt status as a nonprofit religious organization under section 501(c) of the Internal Revenue Code; or an entity whose real estate on which the child care facility is located is exempt from taxation because it is used for religious purposes.

210.566. FOSTER PARENTS' BILL OF RIGHTS. — 1. The division of family services and its contractors shall treat foster parents with courtesy, respect and consideration. Foster parents shall treat the children in their care, the child's birth family and members of the child welfare team with courtesy, respect and consideration.

2. (1) The division of family services and its contractors shall provide foster parents with training, pre-service and in-service, and support. The division of family services and its contractors shall share all pertinent information about the child and the child's family, including but not limited to, the case plan with the foster parents to assist in determining if a child would be a proper placement. The division of family services and its contractors shall inform the foster parents of issues relative to the child that may jeopardize the health or safety of the foster family. The division of family services and its contractors shall arrange pre-placement visits, except in emergencies. The foster parents may ask questions about the child's case plan, encourage a placement or refuse a placement without reprisal from the caseworker or agency. After a placement, the division of family services shall update the foster parents as new information about the child is gathered. Foster parents shall be informed of upcoming meetings and staffings, and shall be allowed to participate, consistent with section 210.761. The division of family services shall establish reasonably accessible respite care for children in foster care for short periods of time, jointly determined by foster parents and the child's caseworker pursuant to section 210.545.

(2) Foster parents shall treat all information received from the division of family services about the child and the child's family as confidential. Foster parents may share information they may learn about the child and the child's family with the caseworker and other members of the child welfare team. Recognizing that placement changes are difficult for children, foster parents shall seek all necessary information, and participate in pre-placement visits, before deciding whether to accept a child for placement. Foster parents shall follow all procedures defined by the division of family services for requesting and using respite care.

3. (1) Foster parents shall make decisions about the daily living concerns of the child, and shall be permitted to continue the practice of their own family values and routines while respecting the child's cultural heritage. All discipline shall be consistent with state laws and regulations. The division of family services shall allow foster parents to help plan visitation between the child and the child's biological family.

(2) Foster parents shall provide care that is respectful of the child's cultural identity and needs. Foster parents shall recognize that the purpose of discipline is to teach and direct the behavior of the child, and ensure that it is administered in a humane and sensitive manner. Recognizing that visitation with family members is an important right, foster parents shall be flexible and cooperative in regard to family visits.

4. (1) Consistent with state laws and regulations, the state may provide, upon request by the foster parents, information about a child's progress after the child leaves foster

care. Except in emergencies, foster parents shall be given advance notice consistent with division policy, and a written statement of the reasons before a child is removed from their care. If a child re-enters the foster care system, the child's foster parents shall be considered as a placement option. If a child becomes free for adoption while in foster care, the child's foster family shall be given preferential consideration as adoptive parents consistent with section 453.070, RSMo.

(2) Confidentiality rights of the child and the child's parents shall be respected and maintained. Foster parents shall inform the child's caseworker of their interest if a child re-enters the system. If a foster child becomes free for adoption and the foster parents desire to adopt the child, they shall inform the caseworker in a timely manner. If they do not choose to pursue adoption, foster parents shall make every effort to support and encourage the child's placement in a permanent home. When requesting removal of a child from their home, foster parents shall give reasonable advance notice, consistent with division policy, to the child's caseworker, except in emergency situations.

5. (1) Foster parents shall be informed by the court in a timely manner of all court hearings pertaining to a child in their care, and informed of their right to attend and participate, consistent with section 211.464, RSMo.

(2) Foster parents shall share any concerns regarding the case plan for a child in their care with the child's caseworker, as well as other members of the child welfare team, in a timely manner.

6. Foster parents shall have timely access to the child placement agency's appeals process, and shall be free from acts of retaliation when exercising the right to appeal.

7. Foster parents shall know and follow the policies of the division of family services, including the appeals procedure.

8. For purposes of this section, "foster parent" means a resource family providing care of children in state custody.

210.906. REGISTRATION FORM, CONTENTS — VIOLATION, PENALTY — FEES — VOLUNTARY REGISTRATION PERMITTED, WHEN. — 1. Every child-care worker or elder-care worker hired on or after January 1, 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration form provided by the department. The department shall make such forms available no later than January 1, 2001, and may, by rule, determine the specific content of such form, but every form shall:

- (1) Request the valid Social Security number of the applicant;
- (2) Include information on the person's right to appeal the information contained in the registry pursuant to section 210.912;
- (3) Contain the signed consent of the applicant for the background checks required pursuant to this section; and
- (4) Contain the signed consent for the release of information contained in the background check for employment purposes only.

2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and every personal-care worker hired on or after January 1, 2002, shall complete a registration form within fifteen days of the beginning of such person's employment. Any person employed as a child-care, elder-care or personal-care worker who fails to submit a completed registration form to the department of health and senior services as required by sections 210.900 to 210.936 without good cause, as determined by the department, is guilty of a class B misdemeanor.

3. The costs of the criminal background check may be paid by the individual applicant, or by the provider if the applicant is so employed, or for those applicants receiving public assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall be deposited to the credit of the criminal record system fund as required by section 43.530, RSMo.

4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically registered in the family care safety registry at no additional cost other than the costs required pursuant to sections 210.481 to 210.565.

5. Any person not required to register pursuant to the provisions of sections 210.900 to 210.936 may also be included in the registry if such person voluntarily applies to the department for registration and meets the requirements of this section and section 210.909, including submitting to the background checks in subsection 1 of section 210.909.

[5.] 6. The provisions of sections 210.900 to 210.936 shall not extend to related child care, related elder care or related personal care.

210.1007. LIST OF CHILDREN'S PRODUCTS TO BE FURNISHED TO ALL CHILD-CARE FACILITIES BY DEPARTMENT — DISPOSAL OF UNSAFE PRODUCTS — INSPECTIONS BY DEPARTMENT — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall, on or before July 1, 2003, and quarterly thereafter, provide all child care facilities licensed pursuant to this chapter with a comprehensive list of children's products that have been identified by the Consumer Product Safety Commission as unsafe.

2. Upon notification, a child care facility shall inspect its premises and immediately dispose of any unsafe children's products which are discovered. Such inspection shall be documented by signing and dating the department's notification form in a space designated by the department. Signed and dated notification forms shall be maintained in the facility's files for departmental inspection.

3. During regular inspections, the department shall document the facility's maintenance of past signed and dated notification forms. If the department discovers an unsafe children's product, the facility shall be instructed to immediately dispose of the product. If a facility fails to dispose of a product after being given notice that it is unsafe, it shall be considered a violation under the inspection.

4. The department may promulgate rules for the implementation 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.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS.

— 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

211.181. ORDER FOR DISPOSITION OR TREATMENT OF CHILD—SUSPENSION OF ORDER AND PROBATION GRANTED, WHEN — COMMUNITY ORGANIZATIONS, IMMUNITY FROM LIABILITY, WHEN — LENGTH OF COMMITMENT MAY BE SET FORTH — ASSESSMENTS, DEPOSITS, USE. — 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home;

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services, subject to appropriation, and

shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child or person seventeen years of age.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court. Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision, shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may

discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

294.011. DEFINITIONS. — As used in this chapter, the following terms mean:

- (1) "Child", an individual under sixteen years of age, **unless otherwise specified**;
- (2) "Commission", the labor and industrial relations commission;
- (3) "Department", the department of labor and industrial relations;
- (4) "Department director", the director of the department of labor and industrial relations;
- (5) "Director", the director of the division of labor standards;
- (6) "Division", the division of labor standards;
- (7) "Employ", engage a child in gainful employment for wages or other remuneration

[except where the child is working under the direct control of the parent, legal custodian or guardian of the child]. The term employ shall not include [the performance of the following services by a child twelve years of age or older] **any child working under the direct control of the child's parent and shall not include the following services which may be performed by any child over the age of twelve:**

- (a) The delivery or sales of newspapers[, magazines or periodicals];
- (b) Child care;

(c) Occasional yard or farm work, **including agriculture work as defined in subdivision (1) of section 290.500, RSMo**, performed by a child with the knowledge and consent of [his or her] **the child's parent** [, legal custodian or guardian. Such work shall include the use of lawn and garden machinery in domestic service at or around a private residence, provided that, there shall be an agreement between an occupant of the private residence and the child, and by no other person, firm or corporation, other than a parent, legal custodian or guardian of the child, for the performance of such work]. **A child may operate lawn and garden machinery as specified in subsection (1) of section 294.040, provided that, no child shall be permitted to engage in any activities prohibited by section 294.040;**

(d) Participating in a youth sporting event as a referee, coach or other position necessary to the sporting event; except that, this paragraph shall not include working at a concession stand. For purposes of this paragraph, "youth sporting event" means an event where all players are under the age of eighteen and the event is sponsored and supervised by a public body or a not-for-profit entity[; or

(e) Any other part-time employment performed by a child with the knowledge and consent of his or her parent, legal custodian or guardian not specifically prohibited by section 294.040];

- (8) **"Parent", a child's parent, legal custodian or guardian.**

294.024. EMPLOYMENT OF CHILDREN, WORK CERTIFICATE REQUIRED. — A child [who has passed the child's fourteenth birthday but is under sixteen years of age may be employed in any occupation other than the occupations prohibited by this chapter, except that the child] may not be employed during the regular school term unless the child has been issued a work certificate[,] or a work permit [issued] pursuant to the provisions of this chapter [or an exemption issued by the director].

294.030. HOURS OF WORK FOR MINORS. — 1. A child [under sixteen years of age] shall not be employed, permitted or suffered to work at any gainful employment for more than three hours per day in any school day, more than eight hours in any nonschool day, more than six days or forty hours in any week. Normal work hours shall not begin before seven o'clock in the

morning nor extend to after 9:00 p.m., except as provided in subsection 2 of this section. The provisions of this subsection may be waived by the director, in full or in part, depending upon the nature of the employment. Such waiver shall be provided in writing to the employer by the director. **The waiver shall only exempt employment described in section 294.022.**

2. On all evenings from Labor Day to June first, a child [under sixteen years of age] shall not be employed, permitted or suffered to work at any gainful employment after 7:00 p.m. nor after 9:00 p.m. from June first to Labor Day; except that a child who has passed his or her fourteenth birthday but is under sixteen years of age may be employed at a regional fair from June first to Labor Day, if such child does not work after 10:30 p.m., is supervised by an adult, parental consent is given and the provisions of this subsection are complied with. The [provisions of this subsection] **regional fair exception** shall not apply to those entities covered by the Fair Labor Standards Act. The provisions of this subsection do not apply to children who have been permanently excused from school pursuant to the provisions of chapter 167, RSMo. The provisions of this subsection may be waived by the director, in full or in part, depending upon the nature of the employment. Such waiver shall be provided in writing to the employer by the director. The waiver shall only exempt employment described in section 294.022.

294.043. EMPLOYMENT IN STREET OCCUPATION PROHIBITED, EXCEPTIONS. — No child under sixteen years of age shall be employed or permitted to work in any street occupation connected with peddling, begging, door-to-door selling or any activity pursued on or about any public street or public place [until the employer has received written permission from the director of the division of labor standards]. This prohibition does not apply to any public school or church or charitable fund-raising activity, **or distribution of literature relating to a registered political candidate.**

294.060. WORK CERTIFICATES OR WORK PERMITS TRANSMITTED TO EMPLOYER, RETURN TO OFFICER, REISSUE, RECORD. — 1. Whenever a child [under sixteen years of age] is granted a work certificate or work permit, the certificate or work permit shall be transmitted by the issuing officer to the employer of the child and a copy shall be [mailed] **transmitted** to the division. The employer shall keep the work certificate or work permit on file and shall post in a conspicuous place in the employer's place of business a list of all children who are employed and under the age of sixteen.

2. On termination of the employment of the child, the child's work certificate or work permit shall be sent immediately by the employer to the officer who issued it.

3. A new certificate or work permit may be issued for a child whose certificate or work permit has been returned by the employer to the issuing officer.

4. A copy of each work certificate or work permit issued and notice of its cancellation shall be retained by the issuing officer and a copy shall be [mailed] **transmitted** by the issuing officer to the division.

294.090. DIRECTOR OF DIVISION OF LABOR STANDARDS TO ENFORCE — RIGHTS, DUTIES — RECORD KEEPING REQUIRED — CANCELLATION OF WORK CERTIFICATE OR WORK PERMIT. — 1. The director is charged with the enforcement of the provisions of this chapter and all other laws regulating the employment of children. The director is vested with the power and jurisdiction to exercise such supervision over every employment as may be necessary to adequately enforce and administer the provisions of this chapter, including the right to enter any place where children are employed and to inspect the premises and to [call for and inspect] **require the production of** work certificates or work permits and any other necessary documents specifically requested that involve the employment of children.

2. **Every employer subject to any provision of sections 294.005 to 294.150 or any regulation issued pursuant to sections 294.005 to 294.150 shall make and keep for a period**

of not less than two years, on the premises where any child is employed, the work certificate, a record of the name, address, and age of the child, and times and hours worked by the child each day.

3. All records and information obtained by the division pertaining to minors are confidential and personal identifying information shall be disclosed only by order of a court of competent jurisdiction.

4. If it appears that a work certificate or work permit has been improperly granted or illegally used, or the child is being injured, or is likely to be injured by the employment, this fact shall be reported to the issuing officer who shall cancel the work certificate or work permit. Notice in writing of the cancellation, with reasons therefor, shall be [mailed] **transmitted** immediately to the child and to the person employing the child, and thereafter it shall be unlawful for any such person to continue to employ the child.

294.121. ADMINISTRATIVE PENALTIES, CIVIL DAMAGES, GROUNDS, DUTIES OF DIRECTOR, NOTICE, JUDICIAL REVIEW. — 1. Any person, firm or corporation who violates any provision of this chapter shall in addition to the criminal violation in section 294.110 be civilly liable for damages of not less than fifty dollars but not more than one thousand dollars for each violation. Each day a violation continues shall constitute a separate violation. Each child employed or permitted to work in violation of this chapter shall constitute a separate violation. The director may bring the civil action to enforce the provisions of this chapter. The attorney general may, on behalf of the director, bring suit pursuant to this section.

2. The director shall determine the amount of civil damages to request in the suit based on the nature and gravity of the violation. **The director shall also consider the size of the business when determining the appropriate civil damages. The size of the business shall be determined by the number of people employed by that business.** A request for the maximum civil damages shall be justified by the following, **to be considered individually or in combination:**

(1) The likelihood of injury and the seriousness of the potential injuries to which the child has been exposed;

(2) The business or employer has had multiple violations;

(3) The business or employer has had recurring violations;

(4) Employment of any child in a hazardous or detrimental occupation;

(5) Violations involving children under fourteen years of age;

(6) A substantial number of hours worked in excess of the statutory limit;

(7) Falsification or concealment of information regarding the employment of children;

(8) Failure to assure future compliance with the provisions of this chapter.

3. If the director decides to seek civil damages as provided by this section, the director shall notify, by certified mail, the person, firm or corporation charged with the violation. The notice of violation shall include the following:

(1) The nature of the violation;

(2) The date of the violation;

(3) The name of the child or children involved in the violation;

(4) The amount of civil damages the director is requesting;

(5) The terms and conditions for any settlement agreement; and

(6) The right to contest the director's decision to seek civil damages.

4. The initial violation determination from the division shall be final, unless within twenty calendar days after the division mails the violation determination or notification, the person, firm or corporation charged with the violation notifies the director in writing that the violation determination is being contested.

5. The parties named in the violation determination may contest the violation determination if a written notice appealing the violation determination is received by the director within twenty calendar days after the division mailed the violation determination. The director shall set a

meeting with the parties contesting the findings in order to review the findings of the division. After review of the findings, the director may hold that the findings support the violation determination or the director may issue a revised violation determination.

6. If the parties cited in the subsequent violation determination disagree with the violation determination of the director, then the parties cited in the subsequent violation determination may contest the subsequent determination by filing a written appeal with the department director. The appeal contesting the subsequent determination shall be sent to the department director in time to be received within twenty calendar days after the division mailed the subsequent violation determination from the director. If the director does not receive the written appeal within twenty calendar days after the division mailed the subsequent violation determination then the determination of the director shall be final. If the subsequent written appeal is received within the twenty-calendar-day period, then the department director, or the department director's designee, shall set a meeting with the parties contesting the findings in order to review the findings of the division and the director. After review of the findings, the department director, or the department director's designee, may hold that the findings of the division and the director support the violation determination or the department director, or the department director's designee, may issue a revised violation determination.

7. The determination of the department director or the department director's designee shall be the final determination pertaining to the violation determinations, unless judicial review is sought under chapter 536, RSMo.

294.141. NOTICE OF TRANSMISSIONS BY DIVISION. — The records of the division shall constitute prima facie evidence of the date of [mailing] **transmission** of any notice, determination or other paper [mailed] **transmission** pursuant to the provisions of this chapter.

352.400. MINISTERS, DUTY TO REPORT CHILD ABUSE AND NEGLECT — DEFINITIONS — DESIGNATION OF AN AGENT. — **1. As used in this section, the following words and phrases shall mean:**

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse, injury or harm to a child under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo;

(2) "Child", any person regardless of physical or mental condition, under eighteen years of age;

(3) "Minister", any person while practicing as a minister of the gospel, clergyperson, priest, rabbi, or other person serving in a similar capacity for any religious organization who is responsible for or who has supervisory authority over one who is responsible for the care, custody, and control of a child or has access to a child;

(4) "Neglect", failure to provide the proper or necessary support or services by those responsible for the care, custody, and control of a child, under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo;

(5) "Religious organization", any society, sect, persuasion, mission, church, parish, congregation, temple, convention or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, that meets at more or less regular intervals for worship of a supreme being or higher power, or for mutual support or edification in piety or with respect to the idea that a minimum standard of behavior from the standpoint of overall morality is to be observed, or for the sharing of common religious bonds and convictions;

(6) "Report", the communication of an allegation of abuse or neglect pursuant to sections 210.109 to 210.183, RSMo.

2. When a minister or agent designated pursuant to subsection 3 of this section has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect

under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo, the minister or designated agent shall immediately report or cause a report to be made as provided in sections 210.109 to 210.183, RSMo. Notwithstanding any other provision of this section or sections 210.109 to 210.183, RSMo, a minister shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

3. A religious organization may designate an agent or agents required to report pursuant to sections 210.109 to 210.183, RSMo, in an official capacity on behalf of the religious organization. In the event a minister, official or staff member of a religious organization has probable cause to believe that the child has been subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo, and the minister, official or staff member of the religious organization does not personally make a report pursuant to sections 210.109 to 210.183, RSMo, the designated agent of the religious organization shall be notified. The designated agent shall then become responsible for making or causing the report to be made pursuant to sections 210.109 to 210.183, RSMo. This section shall not preclude any person from reporting abuse or neglect as otherwise provided by law.

452.402. GRANDPARENT'S VISITATION RIGHTS GRANTED, WHEN, TERMINATED, WHEN — GUARDIAN AD LITEM APPOINTED, WHEN — ATTORNEY FEES AND COSTS ASSESSED, WHEN. — 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when such rights have been denied to them;

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation rights to **a parent of the deceased parent of the child;**

(3) **The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition;**

(4) A grandparent is unreasonably denied visitation with the child for a period exceeding ninety days. **However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision; or**

~~[(4)]~~ (5) The child is adopted by a stepparent, another grandparent or other blood relative.

2. The court shall determine if the visitation by the grandparent would be in the child's best interest or if it would endanger the child's physical health or impair the child's emotional development. Visitation may only be ordered when the court finds such visitation to be in the best interests of the child. **However, when the parents of the child are legally married to each other and are living together with the child, it shall be a rebuttable presumption that such parents know what is in the best interest of the child.** The court may order reasonable conditions or restrictions on grandparent visitation.

3. If the court finds it to be in the best interests of the child, the court may appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice law in Missouri. The guardian ad litem may, for the purpose of determining the question of grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

4. A home study, as described by section 452.390, may be ordered by the court to assist in determining the best interests of the child.

5. The court may, in its discretion, consult with the child regarding the child's wishes in determining the best interest of the child.

6. The right of a grandparent to seek or maintain visitation rights pursuant to this section may terminate upon the adoption of the child.

7. The court may award reasonable attorneys fees and expenses to the prevailing party.

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.

454.606. NOTICE TO EMPLOYER OR UNION, NATIONAL MEDICAL SUPPORT NOTICE TO BE USED — DIVISION DUTIES. — 1. In all IV-D cases in which income withholding for child support is to be initiated on the effective date of the order pursuant to section 452.350, RSMo, and section 454.505, respectively, the circuit clerk or division, as appropriate, shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage at the same time the support order withholding notice is issued. In cases in which the division enforces an order to obtain health benefit plan coverage, it also shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage.

2. The notice shall be sent to the employer or union by certified mail, return receipt requested.

3. [The notice shall contain the following information:

(1) The parent's name and Social Security number;

(2) A statement that the parent has been required to provide and maintain health benefit plan coverage for a dependent minor child;

(3) The name, date of birth and Social Security number, if available, for each child.

4. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor employers for current and subsequent periods of employment. Such notice continues until further notice by the court or the division.

5. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.] **The division shall use the National Medical Support Notice required by 42 U.S.C. Section 666(a)(19) and 45 C.F.R. Section 303.32 to enforce health benefit plan coverage under this chapter. All employers, unions, and plan administrators shall comply with the terms of the National Medical Support Notice, including the instructions therein, whether issued by the division or the IV-D agency of another state which appears regular on its face. The division shall:**

(1) Transfer the National Medical Support Notice to an employer within two business days after the date of entry of an employee who is an obligor in a IV-D case in the state directory of new hires; and

(2) Promptly notify the appropriate employer or union if a current order for medical support for which the division is responsible is no longer in effect.

4. The notice issued by the circuit clerk shall contain, at a minimum, the following information:

(1) The parent's name and Social Security number;

(2) A statement that the parent is required to provide and maintain health benefit plan coverage for a dependent minor child; and

(3) The name, date of birth, and Social Security number, if available, for each child.

5. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor employers for current and subsequent periods of employment. Such notice shall continue until further notice by the court or division.

6. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.

454.609. NOTICE TO OBLIGOR, CONTENTS—GROUNDS FOR CONTESTING, HEARING.—

1. At the same time an employer **or union** notice is sent pursuant to section 454.606, the circuit clerk or the division, as appropriate, shall send a notice to the obligor by any form of mail to the obligor's last known address. The information contained in that notice shall include:

(1) A statement that the parent has been directed to provide and maintain health benefit plan coverage for the benefit of a minor child;

(2) The name and date of birth of the minor child;

(3) A statement that the income withholding for health benefit coverage applies to current and subsequent periods of employment;

(4) [The procedure available to] **A statement that the parent may within thirty days of the mailing date of the order or notice submit a written contest to the withholding on the grounds that the withholding is not proper because of mistake of fact or because the obligor [has purchased] provides other insurance that was obtained prior to issuance of the withholding order or notice that is comparable to the health benefit plan available through the employer or union or nonemployer or nonunion group;**

(5) A statement that if the obligor contests the withholding, the obligor shall be afforded an opportunity to present his **or her** case to the court or the division within thirty days of receipt of the notice of contest;

(6) A statement of exemptions which may apply to limit the portion of the obligated party's disposable earnings which are subject to the withholding under federal or state law;

- (7) The Social Security number of the obligor, if available;
- (8) A statement that state law prohibits employers from retaliating against an obligor under an order to provide health benefit plan coverage and that the court or the division should be contacted if the obligor has been retaliated against by his **or her** employer as a result of the order for health benefit plan coverage.

2. The only grounds to contest a withholding order or notice for health benefit plan coverage sent to an employer or union shall be mistake of fact or [the obligor's purchase of] **that the obligor obtained** other insurance **prior to issuance of the withholding order or notice** that is comparable to the health benefit plan available through the employer or union, or nonemployer or nonunion group. For purposes of sections 454.600 to 454.645, "mistake of fact" means an error as to the identity of the obligor.

3. If the obligor contests the withholding order **or notice** for health plan coverage because of mistake of fact or [the purchase of] **because the obligor obtained** comparable insurance [within fifteen days of the mail date of the notice] **prior to issuance of the withholding order or notice**, the court or the director shall hold a hearing, enter an order disposing of all issues disputed by the obligor[, indicate the date that withholding will commence, if appropriate,] and notify the obligated party of the determination and date, within forty-five days of the date of receipt of the obligated party's notice of contest.

454.615. EMPLOYER OR UNION TO TRANSFER ORDER TO GROUP HEALTH PLAN — DUTIES OF PLAN ADMINISTRATOR. — 1. Upon receipt of a court or administrative order, or notice, for health benefit plan coverage, the employer or union shall [forward a copy of] **transfer** the order or notice to the [health benefit plan administrator or insurer, as applicable] **appropriate group health plan providing the health plan coverage for which the child is eligible, excluding any severable notice to withhold for health care coverage directing the employer or union to withhold any mandatory employee contribution to the plan, within twenty business days after the date of the order or notice.**

2. **Within forty business days after the date of the order or notice, the plan administrator shall:**

(1) **Notify the issuing agency whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of such coverage or, if necessary, any steps to be taken by the custodial parent or issuing agency to effectuate such coverage; and**

(2) **Provide to the custodial parent or issuing agency a description of the coverage available and any forms or documents necessary to effectuate such coverage.**

454.618. ENROLLING OF CHILD AS ELIGIBLE DEPENDENT IN HEALTH BENEFIT PLAN, WITHHOLDING OF CONTRIBUTIONS — PROVISION OF INFORMATION AND AUTHORIZATION — DENIAL OR RESTRICTION OF COVERAGE, PROHIBITED, WHEN. — 1. Upon receipt of the court or administrative order, or notice, for health benefit plan coverage, or upon application of the obligor pursuant to that order, the employer or union shall **take necessary action to enroll** the minor child as an eligible dependent in the health benefit plan and, upon enrollment, withhold any required employee contribution or premium from the obligor's income or wages **necessary for the coverage of the child and send any amount withheld directly to the health benefit plan administrator.** If more than one health benefit plan is offered by the employer or union, the minor child shall be enrolled in the plan in which the obligor is enrolled. When one or more plans are available and the obligor is not enrolled in a plan that covers dependents or is not enrolled in any plan, the [employer or union shall enroll the] minor child and the obligor if necessary **shall be enrolled** under the least costly plan that provides service to the area where the child resides **if the order or notice for health benefit plan coverage is not a National Medical Support Notice issued by the division or IV-D agency of another state. If the notice for health benefit plan coverage is a National Medical Support Notice issued by the**

division or IV-D agency of another state, the health benefit plan administrator shall provide to the issuing agency copies of the applicable summary plan descriptions or other documents that describe available coverage, including the additional participant contribution necessary to obtain coverage for the child under each option and whether there is a limited service area for any option. The issuing agency, in consultation with the custodial parent, must promptly select from the available plan options. If the issuing agency does not make such selection within twenty business days from the date the plan administrator provided the option, the plan administrator shall enroll the child in the plan's default option, if any. If the plan does not have a default option, the plan administrator shall enroll the child in the option selected by the issuing agency.

2. In those instances where the obligor fails or refuses to execute any document necessary to enroll the minor child in the health benefit plan ordered by the court, the required information and authorization may be provided by the division or the custodial parent or guardian of the minor child.

3. Information and authorization provided by the division or the custodial parent or guardian of the minor child shall be valid for the purpose of meeting enrollment requirements of the health benefit plan and shall not affect the obligation of the employer or union and the insurer to enroll the minor child in the health benefit plan for which other eligibility, enrollment, underwriting terms and other requirements are met. However, any health benefit plan provision which denies or restricts coverage to a minor child of the obligor due to birth out of wedlock shall be void as against public policy.

4. A minor child that an obligor is required to cover as an eligible dependent pursuant to sections 454.600 to 454.645 shall be considered for health benefit plan coverage purposes as a dependent of the obligor until the child's right to parental support terminates or until further order of the court, but in no event past the limiting age set forth in the health benefit plan.

454.627. TERMINATION OF OBLIGOR'S EMPLOYMENT OR COVERAGE, NOTIFICATION OF OBLIGEE. — When an order for health benefit plan coverage pursuant to sections 454.600 to 454.645 is in effect, upon termination of the obligor's employment, or upon termination of the health benefit plan coverage, the employer, union or health benefit plan administrator, as appropriate, shall make a good faith effort to notify the obligee, [and] or in IV-D cases, the division, within ten days of the termination date with notice of continuation or conversion privileges. **In addition, in IV-D cases, upon termination of the obligor's employment, the employer shall promptly notify the division or IV-D agency of another state, as applicable, of the obligor's last known address and the name and address of the obligor's new employer, if known.**

454.700. INSURER TO PERMIT ENROLLMENT, WHEN — DUTIES OF EMPLOYER — GARNISHMENT OF INCOME PERMITTED, WHEN. — 1. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and a parent is eligible through employment, under the provisions of the federal Comprehensive Omnibus Budget Reconciliation Act (COBRA) or the provisions of section 376.892, RSMo, or for health coverage through an insurer or group health plan, any insurers, including group health plans as defined in section 607(1) of the federal Employee Retirement Income Security Act of 1974, offering, issuing, or renewing policies in this state on or after July 1, 1994, shall:

(1) Permit such parent to enroll under such coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Permit enrollment of a child under coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, or the tribunal of another state, if the parent required by a court or administrative order to provide health coverage fails to make application to obtain coverage for such child;

(3) Not disenroll or eliminate coverage of a child unless [the insurer is provided satisfactory written evidence that]:

(a) **The insurer is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The insurer is provided satisfactory written evidence that** the child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of the disenrollment; **or**

(c) **The employer or union eliminates family health coverage for all of its employees or members; or**

(d) **Any available continuation coverage is not elected or the period of such coverage expires.**

2. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and the parent is eligible for such health coverage through an employer doing business in Missouri, the employer **or union** shall:

(1) Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Enroll a child under family coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, **or a tribunal of another state**, if a parent is enrolled but fails to make application to obtain coverage of such child; and

(3) Not disenroll or eliminate coverage of any such child unless [the employer is provided satisfactory written evidence that]:

(a) **The employer or union is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The employer or union is provided satisfactory written evidence that** the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer **or union** has eliminated family health coverage for all of its employees **or members**.

3. No insurer may impose any requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under chapter 208, RSMo, and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

4. All insurers shall in any case in which a child has health coverage through the insurer of a noncustodial parent:

(1) Provide such information to the custodial parent or legal guardian as may be necessary for the child to obtain benefits through such coverage;

(2) Permit the custodial parent or legal guardian, or provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) Make payment on claims submitted in accordance with subdivision (2) of this subsection directly to the parent, the provider, or the division of medical services.

5. The division of medical services may garnish the wages, salary, or other employment income of, and require withholding amounts from state tax refunds, pursuant to section 143.783, RSMo, to any person who:

(1) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under Medicaid; and

(2) Has received payment from a third party for the costs of such services to such child, but has not used such payment to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services, to the extent necessary to reimburse the division of

medical services for expenditures for such costs under its plan. However, claims for current or past due child support shall take priority over claims by the division of medical services.

6. The remedies for the collection and enforcement of medical support established in this section are in addition to and not in substitution for other remedies provided by law and apply without regard to when the order was entered.

[191.233. MEDICAL RECORDS, FEE INCREASED OR DECREASED, WHEN. — The limits provided in section 191.227 shall be increased or decreased on an annual basis effective January first of each year in accordance with the Health Care Financing Administration Market Basket Survey.]

Approved July 2, 2002

SB 932 [HCS SB 932]

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 notice due to a tenant when the landlord sells the rented property.

AN ACT to repeal sections 250.140 and 535.081, RSMo, and to enact in lieu thereof two new sections relating to notice provisions.

SECTION

- A. Enacting clause.
 250.140. Services deemed furnished both to occupant and owner of premises — notice of termination sent to both occupant and owner of premises.
 535.081. Rent recovery, successor in title, notice required — notice may be attached to notarized affidavit (Counties of the first classification).

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

SECTION A. ENACTING CLAUSE. — Sections 250.140 and 535.081, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 250.140 and 535.081, to read as follows:

250.140. SERVICES DEEMED FURNISHED BOTH TO OCCUPANT AND OWNER OF PREMISES — NOTICE OF TERMINATION SENT TO BOTH OCCUPANT AND OWNER OF PREMISES. — 1. Sewerage services or water and sewerage services combined shall be deemed to be furnished to both the occupant and owner of the premises receiving such service and the city, town or village or sewer district rendering such services shall have power to sue the occupant or owner, or both, of such real estate in a civil action to recover any sums due for such services, plus a reasonable attorney's fee to be fixed by the court.

2. If the occupant of the premises receives the billing, any notice of termination of service shall be sent to both the occupant and owner of the premises receiving such service, if such owner has requested in writing to receive any notice of termination and has provided the entity rendering such service with the owner's business addresses.

535.081. RENT RECOVERY, SUCCESSOR IN TITLE, NOTICE REQUIRED — NOTICE MAY BE ATTACHED TO NOTARIZED AFFIDAVIT (COUNTIES OF THE FIRST CLASSIFICATION). — The right of a successor in title to recover rents pursuant to section 535.070 requires adequate and

timely notice to the tenant. **Except in counties of the first classification as determined pursuant to section 48.020, RSMo,** for the purposes of this section, "adequate and timely notice" means that the purchaser shall notify tenants in writing **of the fact** that title to the property has been transferred, **and of** the means of the transfer and the date of the transfer and the notice shall be attached to a copy of the deed which has been recorded. **In counties of the first classification as determined pursuant to section 48.020, RSMo, in lieu of a copy of the deed which has been recorded, the notice required by this section may be attached to a notarized affidavit executed by both the prior owner of the property and the successor in title, which notarized affidavit shall state that the property has been transferred to the successor in title and the date on which the transfer occurred.**

Approved July 3, 2002

SB 941 [SB 941]

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 business property to appoint representative in matters involving drainage district.

AN ACT to repeal sections 242.010, 242.200 and 242.210, RSMo, relating to drainage districts, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 242.010. Owner defined — delegation of representation and voting rights.
- 242.200. Board to elect president and secretary — report — compensation.
- 242.210. Secretary-treasurer of board — annual audit — warrants, form.

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

SECTION A. ENACTING CLAUSE. — Sections 242.010, 242.200 and 242.210, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 242.010, 242.200 and 242.210, to read as follows:

242.010. OWNER DEFINED — DELEGATION OF REPRESENTATION AND VOTING RIGHTS.
 — **1.** The word "owner" as used in sections 242.010 to 242.690 shall mean the owner of the freehold estate, as appears by the deed record, and it shall not include reversioners, remaindermen, trustees, or mortgagees, who shall not be counted and need not be notified by publication, or served by process, but shall be represented by the present owners of the freehold estate in any proceeding under said sections.

2. Owners of property, located in whole or in part within the drainage district and owned by a corporation, partnership, joint venture, or any other form of ownership other than individual ownership, may delegate through procedures allowed as provided by the laws of this state an individual to exercise representation and voting on behalf of the corporation, partnership, joint venture, or other entity in matters requiring public vote involving the drainage district. For purposes of drainage districts organized pursuant to the laws of this state, any individual so recognized by the corporation, partnership, joint venture, or other entity as having the responsibilities of representing the property owner before the board of supervisors of the drainage district shall in all respects be treated by

laws of this state as the owner of the property, and shall be entitled to all benefits and privileges allowed by law, including serving on the board of supervisors if so elected.

242.200. BOARD TO ELECT PRESIDENT AND SECRETARY — REPORT — COMPENSATION.

— 1. The board of supervisors immediately after their election shall choose one of their number president of the board, and elect some suitable person secretary, who shall serve until [his] **the secretary's** successor is elected and qualified, and who shall be a resident of the county or counties in which the district is situate **or of an adjoining county** and may or may not be a member of the board.

2. Such board shall adopt a seal with a suitable device, and shall keep a record of all its proceedings, which shall be open to the inspection of all owners of real estate and other property of the district, as well as to all other interested parties.

3. The board shall report to the landowners at the annual meeting held [under] **pursuant to** the provisions of section 242.160 what work has been done, either by the engineers or otherwise.

4. At the annual meeting held [under] **pursuant to** the provisions of section 242.160, the compensation to be received by the members of the board for their services while actually engaged in work for the district shall be determined.

242.210. SECRETARY-TREASURER OF BOARD — ANNUAL AUDIT — WARRANTS, FORM.

— 1. The secretary of the board of supervisors in any drainage district shall hold the office of treasurer of such district, except as otherwise provided herein, and [he] **the treasurer** shall receive and receipt for all the drainage taxes collected by the county collector or collectors of revenue, and [he] **the treasurer** shall also receive and receipt for the proceeds of all tax sales made [under] **pursuant to** the provisions of sections 242.010 to 242.690.

2. The treasurer shall receive a salary, payable monthly, such as the board of supervisors may fix, and all necessary expenses; the board of supervisors shall furnish the secretary and treasurer the necessary office room, furniture, stationery, maps, plats, typewriter, and postage, which office shall be in the county, or one of the counties, in which such district is situate, **or in an adjoining county**, and the district records shall be kept in such office.

3. The treasurer may appoint, by and with the advice and consent of the board of supervisors, one or more deputies as may be necessary, whose salary or salaries and necessary expenses shall be paid by the district.

4. The treasurer shall give bond in such amount as shall be fixed by the board of supervisors, conditioned that [he] **the treasurer** will well and truly account for and pay out, as provided by law, all moneys received by [him] **the treasurer** as taxes from the county collector or collectors, and the proceeds from the tax sales of delinquent taxes, and from any other source whatever on any account or claim of said district, which bond shall be signed by at least two sureties, approved and accepted by the board of supervisors, and the bond shall be in addition to the bond for the proceeds of sales of bonds, which is required by section 242.480. The bond of the treasurer may, if the board shall so direct, be furnished by a surety or bonding company, which shall be approved by the board of supervisors; bond shall be placed and remain in the custody of the president of the board of supervisors, and shall be kept separate from all papers in custody of the secretary and treasurer.

5. The treasurer shall deposit all funds received by [him] **the treasurer** in some bank, banks, or trust company to be designated by the board of supervisors. All interest accruing on such funds shall, when paid, be credited to the district.

6. It shall be the duty of the board of supervisors to audit or have audited the books of the treasurer of the district each year and make report thereof to the landowners at the annual meeting and publish a statement within thirty days thereafter, showing the amount of money received, the amount paid out during such year, and the amount in the treasury at the beginning

and end of the year, and file a copy of such statement in the office of the county clerk of each county containing land embraced in the district.

7. The treasurer of the district shall pay out funds of the district only on warrants issued by the district, said warrants to be signed by the president of the board of supervisors and attested by the signature of the secretary and treasurer. All warrants shall be in the following form:

\$Fund No. of warrant Treasurer of district, state of

Pay to dollars out of the money in fund of district for
By order of board of supervisors of district.

(Seal),
President of district.

Attest,
Secretary of district.

Approved June 27, 2002

SB 947 [HCS SCS SB 947]

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 178.870, 360.106, 360.111, and 360.112, RSMo, and to enact in lieu thereof five new sections relating to public community colleges.

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.
- 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 178.870, 360.106, 360.111, and 360.112, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 178.870, 178.881, 360.106, 360.111, and 360.112, 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.

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 July 12, 2002

SB 950 [HCS SB 950]

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

Designates a portion of Interstate 44 as the Henry Shaw Ozark Corridor.

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of the Henry Shaw Ozark Corridor.

SECTION

- A. Enacting clause.
- 227.323. Henry Shaw Ozark Corridor designated.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.323, to read as follows:

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".

Approved July 11, 2002

SB 957 [HCS SCS SB 957]

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

Allows those who serve in Operation Enduring Freedom to receive a special license denoting such service.

AN ACT to repeal section 301.131, RSMo, and to enact in lieu thereof three new sections relating to license plates, with penalty provisions.

SECTION

- A. Enacting clause.
 301.131. Historic motor vehicles, permanent registration, fee — license plates — annual mileage allowed, record to be kept — penalty.
 301.3090. Operation Enduring Freedom special license plates, application, fee.
 301.3116. Operation Noble Eagle special license plate, application, fee.

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

SECTION A. ENACTING CLAUSE. — Section 301.131, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 301.131, 301.3090, and 301.3116, to read as follows:

301.131. HISTORIC MOTOR VEHICLES, PERMANENT REGISTRATION, FEE — LICENSE PLATES — ANNUAL MILEAGE ALLOWED, RECORD TO BE KEPT — PENALTY. — 1. Any motor vehicle over twenty-five years old which is owned solely as a collector's item and which is used and intended to be used for exhibition and educational purposes shall be permanently registered upon payment of a registration fee of twenty-five dollars. Upon the transfer of the title to any such vehicle the registration shall be canceled and the license plates issued therefor shall be returned to the director of revenue.

2. The owner of any such vehicle shall file an application in a form prescribed by the director, if such vehicle meets the requirements of this section, and a certificate of registration shall be issued therefor. Such certificate need not specify the horsepower of the motor vehicle.

3. The director shall issue to the owner of any motor vehicle registered pursuant to this section the same number of license plates which would be issued with a regular annual registration, containing the number assigned to the registration certificate issued by the director

of revenue. [Such license plates shall be kept securely attached to the motor vehicle registered hereunder. The advisory committee established in section 301.129 shall determine the characteristic features of such license plates for vehicles registered pursuant to the provisions of this section so that they may be recognized as such, except that] Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. Historic vehicles may be driven to and from repair facilities one hundred miles from the vehicle's location, and in addition may be driven up to one thousand miles per year for personal use. The owner of the historic vehicle shall be responsible for keeping a log of the miles driven for personal use each calendar year. Such log must be kept in the historic vehicle when the vehicle is driven on any state road. The historic vehicle's mileage driven in an antique auto tour or event and mileage driven to and from such a tour or event shall not be considered mileage driven for the purpose of the mileage limitations in this section. Violation of this section is a class C misdemeanor and in addition to any other penalties prescribed by law, upon conviction thereof, the director of revenue shall revoke the historic motor vehicle license plates of such violator which were issued pursuant to this section.

5. Notwithstanding any provisions of this section to the contrary, any person possessing a license plate issued by the state of Missouri [prior to 1979] **that is over twenty-five years old**, in which the year of the issuance of such plate is consistent with the year of the manufacture of the vehicle, the owner of the vehicle may register such plate as [a personalized plate by following the procedures for personalized license plate registration and paying the same fees as prescribed in section 301.144] **an historic vehicle plate as set forth in subsections 1 and 2 of this section, provided that the configuration of letters, numbers or combination of letters and numbers of such plate are not identical to the configuration of letters, numbers or combination of letters and numbers of any plates already issued to an owner by the director.** Such license plate shall not be required to possess the characteristic features of reflective material and common color scheme and design as prescribed in section 301.130. **The owner of the historic vehicle registered pursuant to this subsection shall keep the certificate of registration in the vehicle at all times. The certificate of registration shall be prima facie evidence that the vehicle has been properly registered with the director and that all fees have been paid.**

301.3090. OPERATION ENDURING FREEDOM SPECIAL LICENSE PLATES, 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 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.

301.3116. 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.

Approved July 3, 2002

SB 959 [SS SCS SB 959]

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

Adds separately managed accounts to the term management services for income tax purposes.

AN ACT to repeal section 620.1355, RSMo, and to enact in lieu thereof one new section relating to investment funds service corporations, with an emergency clause.

SECTION

- A. Enacting clause.
- 620.1355. Director to certify corporations — factors to be considered — certificate issued when — failure to qualify, applicant's right of appeal — nonresident corporation, director may issue opinion, when.
- B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 620.1355, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1355, to read as follows:

620.1355. DIRECTOR TO CERTIFY CORPORATIONS — FACTORS TO BE CONSIDERED — CERTIFICATE ISSUED WHEN — FAILURE TO QUALIFY, APPLICANT'S RIGHT OF APPEAL —

NONRESIDENT CORPORATION, DIRECTOR MAY ISSUE OPINION, WHEN. — The director shall certify an investment funds service corporation or S corporation to make the annual election and shall determine whether applicants for certification qualify pursuant to the definitions found in subdivision (4) of subsection 2 of section 143.451, RSMo. In making his or her determination for certification, the director shall further take into consideration factors including, but not limited to: current and past industry employment growth and employment retention in the state; salary levels of new or existing industry employment in the state; the income tax laws applied to investment funds service corporations in other states; industry growth nationally and within the state; the prevailing conditions in the economy and financial markets; the competitive environment within the industry; the applicant's past certification and use of this section and sections 620.1350 and 620.1360; and an applicant's size, structure and method of operation. After determining an applicant is qualified to make the election, the director shall issue a certificate of qualification, a copy of which the applicant shall annually file with the applicant's income tax return. Once certified by the director, an investment funds service corporation shall remain certified for the annual election pursuant to this section and sections 620.1350 and 620.1360 until it no longer qualifies pursuant to the definitions of subdivision (4) of subsection 2 of section 143.451, RSMo. The director may, at any time, require reasonable information to be submitted by an investment funds service corporation to establish its qualification for certification. If the director determines an application does not qualify for the annual election, the director shall notify the applicant of the reason for this determination in writing and the applicant shall have the same rights of reconsideration and appeal afforded to taxpayers denied tax credits pursuant to section 135.250, RSMo. **The director, upon request, may issue an opinion stating whether a nonresident investment funds service corporation or S corporation would meet the qualifications for certification pursuant to this section if such corporation were to relocate its principal business headquarters to this state, and such opinion shall be binding upon this state and its agencies if such corporation relocates its headquarters to this state in reliance on such opinion and if at the time such corporation relocates its principal business headquarters to this state, it meets the requirements of subdivision (4) of subsection 2 of section 143.451, RSMo, the director shall certify the corporation to make the initial annual election as set forth in this section. Any provision of law to the contrary notwithstanding, information submitted to the director pursuant to this section shall be exempt from the provisions of chapter 610, RSMo.**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide nonresident investment funds service corporations with critical information regarding their certification status, 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 27, 2002

SB 960 [HCS SCS SB 960]

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

Creates the "God Bless America" license plates.

AN ACT to amend chapter 301, RSMo, by adding thereto three new sections relating to the creation of special license plates.

SECTION

- A. Enacting clause.
301.3087. Missouri State Humane Association special license plate, application, fee — Missouri pet spay/neuter fund created.
301.3097. God Bless America special license plate, application, fee.
301.3115. Air medal award special license plate, application, fee.

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 three new sections, to be known as sections 301.3087, 301.3097, and 301.3115, to read as follows:

301.3087. MISSOURI STATE HUMANE ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE — MISSOURI PET SPAY/NEUTER FUND CREATED. — **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 Missouri State Humane Association. The Missouri State Humane Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. All emblem-use authorization fees, except reasonable administrative costs, shall be placed into a special fund as described in subsection 4 of this section and shall be used exclusively for the purpose of spaying and neutering dogs and cats in the state of Missouri.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri State Humane Association, the Missouri State Humane Association 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 State Humane Association and shall have the words "I'M PET FRIENDLY" on the license plates 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 State Humane 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 State Humane 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.

4. The "Missouri Pet Spay/Neuter Fund" is hereby created as a special fund in the state treasury and shall be administered by the department of agriculture. This fund shall consist of moneys collected pursuant to this section. All moneys deposited in the Missouri

pet spay/neuter fund, except reasonable administrative costs, shall be paid as grants to humane societies, local municipal animal shelters regulated by sections 273.400 to 273.405, RSMo, and organizations exempt from federal income taxation under Section 501 (c)(3) of the Internal Revenue Code to be used solely for the spaying and neutering of dogs and cats in the state of Missouri. For purposes of approving grants under this section, the governor shall appoint a volunteer board that shall consist of three Missouri residents, of which two shall be administrators of local municipal animal shelters regulated by sections 273.400 to 273.405, RSMo, and one shall be an administrator of a humane society. Each of the three members shall be from separate congressional districts. Members of this board shall be appointed for three year terms and shall meet at least twice a year to review grant applications. All moneys deposited in the Missouri pet spay/neuter fund, except reasonable administrative costs, shall be spent by the end of each fiscal year. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if any moneys remain in the fund at the end of the biennium, said moneys shall not revert to the credit of the general revenue fund.

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.

301.3115. AIR MEDAL AWARD SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who has been awarded the military service award known as the "Air Medal" may apply for Air Medal motor vehicle license plates for any motor vehicle such person owns,

either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

2. Any such person shall make application for the Air Medal license plates on a form provided by the director of revenue and furnish such proof as a recipient of the Air Medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director with the words "AIR MEDAL" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the Air Medal.

3. There shall be a fifteen-dollar fee in addition to the regular registration fees charged for each set of Air Medal license plates issued pursuant to this section. 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 license plates issued pursuant to this section is issued for vehicles owned solely or jointly by such person. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

Approved July 3, 2002

SB 962 [HCS SB 962]

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

Allows Kansas City to designate Jackson County Election Authority as verification board for the City.

AN ACT to repeal section 115.507, RSMo, and to enact in lieu thereof one new section relating to the certification of election results.

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

SB 966 [SCS SB 966]

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

Creates the St. Louis College of Pharmacy special license plate.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to special license plates.

SECTION

A. Enacting clause.
301.3042. St. Louis College of Pharmacy special license plate, application, fee.

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 301.3042, to read as follows:

301.3042. 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 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.

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.

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 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. 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.

4. 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.

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.

Approved June 28, 2002

SB 967 [SCS SB 967]

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

Allows spouses or dependents of deceased retired officers and employees of the police department receiving a pension to purchase insurance.

AN ACT to repeal section 84.160, RSMo, relating to police officers, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

84.160. Annual salary tables — overtime, how compensated — other employment benefits — unused vacation, compensation for certain officers.

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

SECTION A. ENACTING CLAUSE. — Section 84.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 84.160, to read as follows:

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.	Asst.							
	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt. Col. Salary	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.	Asst.							
	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt. Col. Salary	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

4. 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. 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. 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. 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. 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. 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 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. 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. **Health, medical and life insurance coverage shall be made available for purchase to the spouses or dependents of deceased retired officers and employees of the police department who receive pension benefits pursuant to sections 86.200 to 86.364, RSMo, at the rate that such dependent's or spouse's coverage would cost under the appropriate plan if the deceased were living;**

(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. 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. 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.

Approved June 28, 2002

SB 969 [CCS HS#2 HCS SS SCS SB 969, 673 & 855]

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

Adds forcible rape and forcible sodomy to dangerous felonies; increases minimum sentence from five years to ten years.

AN ACT to repeal sections 43.540, 217.690, 547.170, 556.061, 565.225, 565.253, 566.010, 566.090, 589.400, 589.410, and 632.483, RSMo, and to enact in lieu thereof nineteen new sections relating to prosecution and prevention of sex crimes, with penalty provisions.

SECTION

- A. Enacting clause.
- 43.540. Criminal conviction record checks, patrol to conduct, when, procedure, information to be released, who may request — use limited to staff and volunteer applicants, confidentiality, violation, penalty.
- 43.653. Highway patrol to create and supervise — location of lab.
- 43.656. Declaration of need for lab.
- 43.659. Powers of highway patrol.
- 217.690. Board may order release or parole, when — personal hearing — standards — rules — minimum term for eligibility for parole, how calculated — first degree murder, eligibility for hearing — hearing procedure — notice — education requirements, exceptions.
- 547.170. Prisoner, when let to bail.
- 556.061. Code definitions.
- 565.200. Skilled nursing facility residents, sexual contact or intercourse with, penalties — consent not a defense.
- 565.225. Crime of stalking — definitions — penalties.
- 565.252. Invasion of privacy, first degree, penalty.
- 565.253. Crime of invasion of privacy, second degree, penalties.
- 566.010. Chapter 566 and chapter 568 definitions.
- 566.090. Sexual misconduct, first degree, penalties.
- 566.111. Unlawful sex with an animal, penalties.
- 566.145. Sexual contact with an inmate, penalty — consent not a defense.
- 566.151. Enticement of a child, penalties.
- 589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration.
- 589.410. Highway patrol to be notified, information to be made a part of MULES.
- 632.483. Notice to attorney general, when — contents of notice — immunity from liability, when — multidisciplinary team established — prosecutors' review committee established.

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

SECTION A. ENACTING CLAUSE. — Sections 43.540, 217.690, 547.170, 556.061, 565.225, 565.253, 566.010, 566.090, 589.400, 589.410, 632.483, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 43.540, 43.653, 43.656, 43.659,

217.690, 547.170, 556.061, 565.200, 565.225, 565.252, 565.253, 566.010, 566.090, 566.111, 566.145, 566.151, 589.400, 589.410 and 632.483, to read as follows:

43.540. CRIMINAL CONVICTION RECORD CHECKS, PATROL TO CONDUCT, WHEN, PROCEDURE, INFORMATION TO BE RELEASED, WHO MAY REQUEST — USE LIMITED TO STAFF AND VOLUNTEER APPLICANTS, CONFIDENTIALITY, VIOLATION, PENALTY. — 1. As used in this section, the following terms mean:

(1) "Criminal record review", a request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor **and any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo;**

(2) "Patient or resident", a person who by reason of aging, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(3) "Patrol", the Missouri state highway patrol;

(4) "Provider", any licensed day care home, licensed day care center, licensed child placing agency, licensed residential care facility for children, licensed group home, licensed foster family group home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo;

(5) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. Upon receipt of a written request from a private investigatory agency, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request.

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the **address and offense for which the offender registered pursuant to sections 589.400 to 589.425, RSMo, and the nature of the offense**, and the date, place and court **for any other offenses contained in the criminal record review**. Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, RSMo, sections 566.010 to 566.141, RSMo, or under the laws of any state or the United States for offenses described in sections 566.010 to 566.141, RSMo, or chapter 565, RSMo, during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.

43.653. HIGHWAY PATROL TO CREATE AND SUPERVISE — LOCATION OF LAB. — **The highway patrol is hereby authorized to create, direct, control and supervise the "Missouri Regional Computer Forensics Lab" (RCFL). The highway patrol has the ability to bring**

together federal, state, and local resources to fight computer crimes for the purposes listed in section 43.656. The RCFL shall be located within a twenty-five mile radius of an international airport.

43.656. DECLARATION OF NEED FOR LAB.— It is hereby found and declared that:

(1) With the widespread use of computers, the Internet and electronic devices to commit crimes and the critical lack of resources at state and local levels;

(2) Modern day criminals have learned to exploit the Internet and electronic communication to leverage computer technology to reach a virtually unlimited number of victims while maintaining a maximum level of anonymity, computer crimes will continue to mount, especially in, but not limited to, the areas of child pornography and sexual offenses involving children, consumer fraud and harassment.

(3) It is necessary for the protection of the citizens of this state that provisions be made for the establishment of the Missouri regional computer forensics lab to prevent and reduce computer, Internet and other electronically-based crimes.

43.659. POWERS OF HIGHWAY PATROL.— The highway patrol shall have the power, as necessary or convenient to carry out and effectuate the purposes and provisions of sections 43.653 to 43.656, to enter into agreements or other transactions with, negotiate memorandum of understanding with all governmental agencies, participate in interstate computer forensic matters as they relate to the purposes of the center, both within and outside the state when necessary or appropriate, or when required to do so by a proper authority and accept grants and the cooperation of, the United States or any agency or instrumentality thereof or of this state or any agency or instrumentality thereof, in furtherance of the purposes of this section, and to do any and all things necessary in order to avail itself of such aid and cooperation.

217.690. BOARD MAY ORDER RELEASE OR PAROLE, WHEN — PERSONAL HEARING — STANDARDS — RULES — MINIMUM TERM FOR ELIGIBILITY FOR PAROLE, HOW CALCULATED — FIRST DEGREE MURDER, ELIGIBILITY FOR HEARING — HEARING PROCEDURE — NOTICE — EDUCATION REQUIREMENTS, EXCEPTIONS. — 1. When in its opinion there is reasonable probability that an offender of a correctional center can be released without detriment to the community or to himself, the board may in its discretion release or parole such person except as otherwise prohibited by law. All paroles shall issue upon order of the board, duly adopted.

2. Before ordering the parole of any offender, the board shall have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the board.

3. The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall recite the conditions of such parole.

4. When considering parole for an offender with consecutive sentences, the minimum term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility for each of the consecutive sentences, except the minimum term for parole eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

5. Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three

years from the month of the parole denial; however, this subsection shall not prevent a release pursuant to subsection 4 of section 558.011, RSMo.

6. Parole hearings shall, at a minimum, contain the following procedures:

(1) The victim or person representing the victim who attends a hearing may be accompanied by one other person;

(2) The victim or person representing the victim who attends a hearing shall have the option of giving testimony in the presence of the inmate or to the hearing panel without the inmate being present;

(3) The victim or person representing the victim may call or write the parole board rather than attend the hearing;

(4) The victim or person representing the victim may have a personal meeting with a board member at the board's central office; [and]

(5) The judge, prosecuting attorney or circuit attorney and a representative of the local law enforcement agency investigating the crime shall be allowed to attend the hearing or provide information to the hearing panel in regard to the parole consideration; **and**

(6) The board shall evaluate information listed in the juvenile sex offender registry pursuant to section 211.425, RSMo, provided the offender is between the ages of seventeen and twenty-one, as it impacts the safety of the community.

7. The board shall notify any person of the results of a parole eligibility hearing if the person indicates to the board a desire to be notified.

8. The board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

9. Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

10. Beginning January 1, 2001, the board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender, while committed to the custody of the department, has made an honest good-faith effort to obtain a high school diploma or its equivalent; provided that the director may waive this requirement by certifying in writing to the board that the offender has actively participated in mandatory education programs or is academically unable to obtain a high school diploma or its equivalent.

547.170. PRISONER, WHEN LET TO BAIL. — In all cases where an appeal or writ of error is prosecuted from a judgment in a criminal cause, except where the defendant is under sentence of death or imprisonment in the penitentiary for life, or a sentence of imprisonment for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, **sections 566.032, 566.060 and 566.062**, RSMo, any court or officer authorized to order a stay of proceedings under the preceding provisions may allow a writ of habeas corpus, to bring up the defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties, to be approved by such court or judge.

556.061. CODE DEFINITIONS. — In this code, unless the context requires a different definition, the following shall apply:

(1) "Affirmative defense" has the meaning specified in section 556.056;

(2) "Burden of injecting the issue" has the meaning specified in section 556.051;

(3) "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(4) "Confinement":

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

- a. A court orders the person's release; or
- b. The person is released on bail, bond, or recognizance, personal or otherwise; or
- c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

- a. The person is on probation or parole, temporary or otherwise; or
- b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

(5) "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(6) "Criminal negligence" has the meaning specified in section 562.016, RSMo;

(7) "Custody", a person is in custody when the person has been arrested but has not been delivered to a place of confinement;

(8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first degree, **attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results**, forcible rape, forcible sodomy, kidnapping, murder in the second degree and robbery in the first degree;

(9) "Dangerous instrument" means any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;

(11) "Felony" has the meaning specified in section 556.016;

(12) "Forcible compulsion" means either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

(13) "Incapacitated" means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act;

(14) "Infraction" has the meaning specified in section 556.021;

(15) "Inhabitable structure" has the meaning specified in section 569.010, RSMo;

(16) "Knowingly" has the meaning specified in section 562.016, RSMo;

(17) "Law enforcement officer" means any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(18) "Misdemeanor" has the meaning specified in section 556.016;

(19) "Offense" means any felony, misdemeanor or infraction;

(20) "Physical injury" means physical pain, illness, or any impairment of physical condition;

(21) "Place of confinement" means any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(22) "Possess" or "possessed" means having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(23) "Public servant" means any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

(24) "Purposely" has the meaning specified in section 562.016, RSMo;

(25) "Recklessly" has the meaning specified in section 562.016, RSMo;

(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(28) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;

(32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

565.200. SKILLED NURSING FACILITY RESIDENTS, SEXUAL CONTACT OR INTERCOURSE WITH, PENALTIES — CONSENT NOT A DEFENSE. — 1. Any owner or employee of a skilled nursing facility, as defined in section 198.006, RSMo, or an Alzheimer's special unit or program, as defined in section 198.505, RSMo, who:

(1) Has sexual contact, as defined in section 566.010, RSMo, with a resident is guilty of a class B misdemeanor. Any person who commits a second or subsequent violation of this subdivision is guilty of a class A misdemeanor; or

(2) Has sexual intercourse or deviate sexual intercourse, as defined in section 566.010, RSMo, with a resident is guilty of a class A misdemeanor. Any person who commits a second or subsequent violation of this subdivision is guilty of a class D felony.

2. The provisions of this section shall not apply to an owner or employee of a skilled nursing facility or Alzheimer's special unit or program who engages in sexual conduct, as defined in section 566.010, RSMo, with a resident to whom the owner or employee is married.

3. Consent of the victim is not a defense to a prosecution pursuant to this section.

565.225. CRIME OF STALKING — DEFINITIONS — PENALTIES. — 1. As used in this section, the following terms shall mean:

(1) "Course of conduct", a pattern of conduct composed of a series of acts, **which may include electronic or other communications**, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct". Such constitutionally protected activity includes picketing or other organized protests;

(2) "Credible threat", a threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause physical injury to, a person **and may include a threat communicated to the targeted person in writing, including electronic communications, by telephone, or by the posting of a site or message that is accessible via computer;**

(3) "Harasses", to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person.

2. Any person who purposely and repeatedly harasses or follows with the intent of harassing another person commits the crime of stalking.

3. Any person who purposely and repeatedly harasses or follows with the intent of harassing or harasses another person, and makes a credible threat with the intent to place that person in reasonable fear of death or serious physical injury, commits the crime of aggravated stalking.

4. The crime of stalking shall be a class A misdemeanor for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim shall be a class D felony.

5. The crime of aggravated stalking shall be a class D felony for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim shall be a class C felony.

6. Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section.

565.252. INVASION OF PRIVACY, FIRST DEGREE, PENALTY. — 1. **A person commits the crime of invasion of privacy in the first degree if such person:**

(1) **Knowingly photographs or films another person, without the person's knowledge and consent, while the person being photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy, and the person subsequently distributes the photograph or film to another or transmits the image contained in the photograph or film in a manner that allows access to that image via a computer; or**

(2) **Knowingly disseminates or permits the dissemination by any means, to another person, of a videotape, photograph, or film obtained in violation of subdivision (1) of subsection 1 of this section or in violation of section 565.253.**

2. Invasion of privacy in the first degree is a class D felony.

565.253. CRIME OF INVASION OF PRIVACY, SECOND DEGREE, PENALTIES. — 1. A person commits the crime of invasion of privacy **in the second degree** if [he]:

(1) Such person knowingly views, photographs or films another person, without that person's knowledge and consent, while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where [he] **one** would have a reasonable expectation of privacy; or

(2) Such person knowingly uses a concealed camcorder or photographic camera of any type to secretly videotape, photograph, or record by electronic means, another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

2. Invasion of privacy **in the second degree pursuant to subdivision (1) of subsection 1 of this section** is a class A misdemeanor; unless more than one person is viewed, photographed or filmed in full or partial nudity in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a [prior invasion of privacy offender] **a person who has previously pled guilty to or been found guilty of invasion of privacy**, in which case invasion of privacy is a class [C] D felony. **Invasion of privacy in the second degree pursuant to subdivision (2) of subsection 1 of this section is a class A misdemeanor; unless more than one person is secretly videotaped, photographed or recorded in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a person who has previously pled guilty to or been found guilty of invasion of privacy, in which case invasion of privacy is a class C felony.** Prior pleas or findings of guilt shall be pled and proven in the same manner required by the provisions of section 558.021, RSMo.

566.010. CHAPTER 566 AND CHAPTER 568 DEFINITIONS. — As used in this chapter and chapter 568, RSMo, the following terms mean:

(1) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person;

(2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

(3) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, **or such touching through the clothing**, for the purpose of arousing or gratifying sexual desire of any person;

(4) "Sexual intercourse", any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

566.090. SEXUAL MISCONDUCT, FIRST DEGREE, PENALTIES. — 1. A person commits the crime of sexual misconduct in the first degree if he has deviate sexual intercourse with another person of the same sex or he purposely subjects another person to sexual contact [or engages in conduct which would constitute sexual contact except that the touching occurs through the clothing] without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

566.111. UNLAWFUL SEX WITH AN ANIMAL, PENALTIES. — **1. A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.**

2. Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.

3. In addition to any penalty imposed or as a condition of probation the court may:
 - (1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;
 - (2) Order all animals in the defendant's possession subject to a civil forfeiture action under chapter 513, RSMo; or
 - (3) Order psychological evaluation and counseling of the defendant at the defendant's expense.
4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.
5. For purposes of this section, the following terms mean:
 - (1) "Animal", every creature, either alive or dead, other than a human being;
 - (2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

566.145. SEXUAL CONTACT WITH AN INMATE, PENALTY — CONSENT NOT A DEFENSE.

- 1. A person commits the crime of sexual contact with an inmate if such person is an employee of, or assigned to work in, any jail, prison or correctional facility and such person has sexual intercourse or deviate sexual intercourse with an inmate or resident of the facility.
2. Sexual contact with an inmate is a class D felony.
3. The victim's consent is not an affirmative defense.

566.151. ENTICEMENT OF A CHILD, PENALTIES. — 1. A person at least twenty-one years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct with a child.

2. It is not an affirmative defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.
3. Attempting to entice a child is a class D felony.
4. Enticement of a child is a class C felony unless the person has previously pled guilty to or been found guilty of violating the provisions of this section, section 568.045, 568.050, or section 568.060, RSMo, or chapter 566, RSMo, in which case it is a class B felony.

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION. — 1. Sections 589.400 to 589.425 shall apply to:

- (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit, [an] a felony offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a minor; or
- (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty to committing, or attempting to commit one or more of the following offenses: kidnapping, pursuant to section 565.110, RSMo; felonious restraint; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; incest; abuse of a child [used], pursuant to section 568.060, RSMo; use of a child in a sexual performance; or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who is a resident of this state [and] **who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state or under federal jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection** or has been or is required to register in another state or has been or is required to register under federal or military law; or

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. Part-time in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of [coming into any county] **conviction, release from incarceration, or placement upon probation**, register with the chief law enforcement official of the county in which such person resides **unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county within ten days of the effective date of this section.** The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town or village law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town or village law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.410. HIGHWAY PATROL TO BE NOTIFIED, INFORMATION TO BE MADE A PART OF MULES. — The chief law enforcement official shall forward the completed offender registration form to the Missouri state highway patrol within three days. The patrol shall enter the information into the Missouri uniform law enforcement system (MULES) where it is available to members of the criminal justice system, **and other entities as provided by law**, upon inquiry.

632.483. NOTICE TO ATTORNEY GENERAL, WHEN — CONTENTS OF NOTICE — IMMUNITY FROM LIABILITY, WHEN — MULTIDISCIPLINARY TEAM ESTABLISHED — PROSECUTORS' REVIEW COMMITTEE ESTABLISHED. — 1. When it appears that a person may meet the criteria of a sexually violent predator, the agency with jurisdiction shall give written notice of such to the attorney general and the multidisciplinary team established in subsection 4 of this section. Written notice shall be given:

(1) Within three hundred sixty days prior to the anticipated release from a correctional center of the department of corrections of a person who has been convicted of a sexually violent offense, except that in the case of persons who are returned to prison for no more than one hundred eighty days as a result of revocation of postrelease supervision, written notice shall be given as soon as practicable following the person's readmission to prison;

(2) At any time prior to the release of a person who has been found not guilty by reason of mental disease or defect of a sexually violent offense; or

(3) At any time prior to the release of a person who was committed as a criminal sexual psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

2. The agency with jurisdiction shall [inform] **provide** the attorney general and the multidisciplinary team established in subsection 4 of this section [of] **with** the following:

(1) The person's name, identifying factors, anticipated future residence and offense history; [and]

(2) Documentation of institutional adjustment and any treatment received or refused, including the Missouri sexual offender program; **and**

(3) A determination by either a psychiatrist or a psychologist as defined in section 632.005, as to whether the person meets the definition of a sexually violent predator.

3. The agency with jurisdiction, its employees, officials, members of the multidisciplinary team established in subsection 4 of this section, members of the prosecutor's review committee appointed as provided in subsection 5 of this section and individuals contracting or appointed to perform services hereunder shall be immune from liability for any conduct performed in good faith and without gross negligence pursuant to the provisions of sections 632.480 to 632.513.

4. The director of the department of mental health and the director of the department of corrections shall establish a multidisciplinary team consisting of no more than seven members, at least one from the department of corrections and the department of mental health, and which may include individuals from other state agencies to review available records of each person referred to such team pursuant to subsection 1 of this section. The team, within thirty days of receiving notice, shall assess whether or not the person meets the definition of a sexually violent predator. The team shall notify the attorney general of its assessment.

5. The prosecutors coordinators training council established pursuant to section 56.760, RSMo, shall appoint a five-member prosecutors' review committee composed of a cross section of county prosecutors from urban and rural counties. No more than three shall be from urban counties, and one member shall be the prosecuting attorney of the county in which the person was convicted or committed pursuant to chapter 552, RSMo. The committee shall review the records of each person referred to the attorney general pursuant to subsection 1 of this section. The prosecutors' review committee shall make a determination of whether or not the person meets the definition of a sexually violent predator. The determination of the prosecutors' review committee or any member pursuant to this section or section 632.484 shall not be admissible evidence in any proceeding to prove whether or not the person is a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the attorney general and the prosecutors' review committee.

Approved July 10, 2002

SB 974 [SB 974]

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

Allows the Department of Transportation to issue special permits for wide vehicles.

AN ACT to repeal section 304.200, RSMo, relating to length limitations on certain vehicles, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

304.200. Special permits for oversize or overweight loads — rules for issuing — when valid.

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

SECTION A. ENACTING CLAUSE. — Section 304.200, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.200, to read as follows:

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.

Approved July 3, 2002

SB 976 [SB 976]

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 member of the State Board of Health to be a chiropractor.

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

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

SB 984 [CCS HS SS#2 SCS SB 984 & 985]

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

This act extends the primacy fee to September 1, 2007.

AN ACT to repeal sections 142.028, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 323.060, 393.847, 414.032, 640.100, 643.220, 644.016, 644.036, 644.051 and 644.052,

RSMo, and to enact in lieu thereof twenty-five new sections relating to environmental regulation.

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.
- 204.472. Sewer service to be provided by agreement for certain annexed areas, procedure (Poplar Bluff, Butler County)
- 247.030. Territory included in district, contiguous — boundaries of districts, how changed — extension or enlargement of district, how.
- 247.031. Detachment from district, when — procedure — costs — petition form.
- 247.040. Formation of public water supply district — procedure.
- 247.217. Consolidation, procedure, petition, notice — subdistricts, how formed — election — directors, terms, eligibility — property, how handled.
- 247.220. Dissolution of district — procedure — election — disposition of property and debts.
- 260.200. Definitions.
- 278.258. Detachment from watershed subdistrict, procedure — certification by trustees.
- 323.060. Retail distributors to be registered — storage capacity requirement — nonresidents to comply — immunity from liability, when — public utilities, exemption.
- 393.847. Department of natural resources, jurisdiction, supervision, powers and duties — public service commission jurisdiction, limitations.
- 414.032. Requirements, standards, certain fuels — director may inspect fuels, purpose.
- 414.043. MTBE content limit for gasoline, when.
- 414.365. Program established for biodiesel fuel use in MoDOT vehicles, goals, rules.
- 640.100. Commission, duties, promulgate rules — political subdivisions may set certain additional standards — certain departments test water supply, when — fees, amount — federal compliance — customer fees, effective, expires, when.
- 640.825. Burden of proof in matters heard by department, exceptions.
- 643.220. Missouri emissions banking and trading program established by commission — promulgation of rules.
- 644.016. Definitions.
- 644.036. Public hearings — rules and regulations, how promulgated — listings under Clean Water Act, requirements.
- 644.051. Prohibited acts — permits required, when, fee — bond required of permit holders, when — permit application procedures — rulemaking — limitation on use of permit fee moneys.
- 644.052. Permit types, fees, amounts — requests for permit modifications — requests for federal clean water certifications.
- 644.578. Commission may borrow additional \$10,000,000 for purposes of water pollution control, improvement of drinking water, and storm water control.
- 644.579. Commission may borrow additional \$10,000,000 for purposes of rural water and sewer grants and loans.
- 644.580. Commission may borrow additional \$20,000,000 for purposes of storm water control.
1. Emissions limitation for certain coal-fired cyclone boilers — expiration date.

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

SECTION A. ENACTING CLAUSE. — Sections 142.028, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 323.060, 393.847, 414.032, 640.100, 643.220, 644.016, 644.036, 644.051 and 644.052, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 142.028, 204.472, 247.030, 247.031, 247.040, 247.217, 247.220, 260.200, 278.258, 323.060, 393.847, 414.032, 414.043, 414.365, 640.100, 640.825, 643.220, 644.016, 644.036, 644.051, 644.052, 644.578, 644.579, 644.580 and 1, 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 **unless such producer during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty month time period.** 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.

204.472. SEWER SERVICE TO BE PROVIDED BY AGREEMENT FOR CERTAIN ANNEXED AREAS, PROCEDURE (POPLAR BLUFF, BUTLER COUNTY) — 1. Whenever all or any part of a territory located within a sewer district that is located in any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants is included by annexation within the corporate limits of any city of the third classification with more than sixteen thousand six hundred but less than sixteen thousand seven hundred inhabitants, but is not receiving sewer service from such district or city at the time of such annexation, the city and the board of trustees of the district may, within six months after such annexation becomes effective, develop an agreement to provide sewer service to the annexed territory. Such an agreement may also be developed for territory that was annexed between January 1, 1996, and August 28, 2002, but was not receiving sewer service from such district or such city on August 28, 2002. For the purposes of this section, "not receiving sewer service" shall mean that no sewer services are being sold within the annexed territory by such district or city. If the city and the board reach an agreement that detaches any territory from such district, the agreement shall be submitted to the circuit court having jurisdiction over the major portion, and the circuit court shall make an order and judgment detaching the territory described in the agreement from the remainder of the district and stating the boundary lines of the district after such detachment. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located. If an agreement is developed between a city and a sewer district pursuant to this subsection, subsections 2 to 8 of this section shall not apply to such agreement.

2. In the event that the board of trustees of such district and the city cannot reach such an agreement, an application may be made by the board or the city to the circuit court requesting that three commissioners develop such an agreement. Such application shall include the name of one commissioner appointed by the applying party. The second party shall appoint one commissioner within thirty days of the service of the application upon the second party. If the second party fails to appoint a commissioner within such time period, the circuit court shall appoint a commissioner on behalf of the second party. Such two named commissioners may agree to appoint a third disinterested commissioner within thirty days after the appointment of the second commissioner. In the event that the two named commissioners cannot agree on or fail to appoint the third disinterested commissioner within thirty days after the appointment of the second commissioner, the circuit court shall appoint the third disinterested commissioner.

3. Upon the filing of such application and the appointment of three such commissioners, the circuit court shall set a time for one or more hearings and shall order a public notice including the nature of the application, the annexed area affected, the names of the commissioners, and the time and place of such hearings, to be published for

three weeks consecutively in a newspaper published in the county in which the application is pending, the last publication to be not more than seven days before the date set for the first hearing.

4. The commissioners shall develop an agreement between the district and the city to provide sewer service to the annexed territory. In developing the agreement, the commissioners shall consider information presented to them at hearings and any other information at their disposal including, but not limited to:

- (1) The estimated future loss of revenue and costs for the sewer district related to the agreement;
- (2) The amount of indebtedness of the sewer district within the annexed territory;
- (3) Any contractual obligations of the sewer district within the annexed area; and
- (4) The effect of the agreement on the sewer rates of the district.

The agreement shall also include a recommendation for the apportionment of costs incurred pursuant to subsections 2 to 8 of this section, including reasonable compensation for the commissioners, between the city and the district.

5. If the circuit court finds that the agreement provides for necessary sewer service in the annexed territory, then such agreement shall be fully effective upon approval by the circuit court. The circuit court shall also review the recommended apportionment of court costs incurred and the reasonable compensation for the commissioners and affirm or modify such recommendations.

6. The order and judgment of the circuit court shall be subject to appeal as provided by law.

7. If the circuit court approves a detachment as part of the territorial agreement, it shall make its order and judgment detaching the territory described in the application from the remainder of the district and stating the boundary lines of the district after such detachment.

8. At such time that the circuit court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located.

9. The proportion of the sum of all outstanding bonds and debt, with interest thereon, that is required to be paid to the sewer district pursuant to this section, shall be the same as the proportion of the assessed valuation of the real and tangible personal property within the area sought to be detached bears to the assessed valuation of all of the real and tangible personal property within the entire area of the sewer district.

247.030. TERRITORY INCLUDED IN DISTRICT, CONTIGUOUS — BOUNDARIES OF DISTRICTS, HOW CHANGED — EXTENSION OR ENLARGEMENT OF DISTRICT, HOW. — 1. Territory that may be included in a district sought to be incorporated or enlarged may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks system or cities whose governing body has by a majority vote requested that the city or part thereof be included within the boundaries of a public water supply district. For the purpose of this section, "city" means any city, town or village. The territory, however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap.

2. Any two or more contiguous districts or any city and a contiguous district may, if there are no outstanding general obligation bonds relating to drinking water supply projects in either entity, by a majority vote of the governing body of each entity, provide for territory located in one entity to be annexed and served by the entity contiguous to the annexed territory. Notice of the proposed annexation shall be filed with the circuit court that originally issued the decree of incorporation for a district which is detaching territory through the proposed annexation or with the circuit court that originally issued the decree of incorporation for a district which is including

a city or part thereof through the proposed annexation. The court shall set a date for a hearing on the proposed annexation and shall cause notice to be published in the same manner as for the filing of the original petition for incorporation; except that publication of notice shall not be required if a majority of the landowners in the territory proposed to be annexed consent in writing, and if notice of the hearing is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing. If publication of the notice is not required pursuant to this section, the court shall only approve the proposed annexation if there is sworn testimony by at least five landowners in the area of the proposed annexation, or a majority of the landowners, if there are fewer than ten landowners in the area. If the court, after the hearing, finds that the proposed annexation would not be in the public interest, it shall order that the annexation not be allowed. If the court finds the proposed annexation to be in the public interest, it shall approve the annexation and the territory shall be detached from the one entity and annexed to the other. After the annexation is approved, the circuit court in which each district involved in the proceedings was incorporated shall amend the decree of incorporation for each district to reflect the change in the boundaries as a result of the annexation and [to] redivide each district into five subdistricts, fixing their boundary lines so that each of the five subdistricts have approximately the same area. A certified copy of the amended decree showing the boundary change and the new subdistricts shall be filed in the office of the recorder of deeds and in the office of the county clerk in each county having territory in the district and in the office of the secretary of state of the state of Missouri.

3. The boundaries of any district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

(1) The board of directors of the district and five or more voters **or landowners** within the territory proposed to be annexed by the district; or

(2) **The board of directors of the district and** a majority of the landowners within the territory proposed to be annexed to the district.

If the petition is filed by the board of directors of the district and five or more voters or landowners within the territory proposed to be annexed by the district, the same proceedings shall be followed as are provided in section 247.040 for the filing of a petition for the organization of the district, except that no election shall be held. Upon entry of a final order declaring the court's decree of annexation to be final and conclusive, the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. If the petition is filed by **the board of directors of the district and** a majority of the landowners within the territory proposed to be annexed, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be annexed at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be annexed, or a majority of the landowners if the total landowners in the area are fewer than ten. **If the court finds that the annexation of such territory would be in the public interest, the court shall enter its order granting such annexation.** Upon the entry of [a final] **such** order [declaring the court's decree of annexation to be final and conclusive], the court shall modify or rearrange the boundary lines of the subdistricts as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the directors of the district.

4. Should any [voter] **landowner** who owns real estate that abuts upon a district once formed desire to have such real estate incorporated in the district, the [voter] **landowner** shall first petition the board of directors thereof for its approval. If such approval be granted, the clerk of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this decree including the

real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

247.031. DETACHMENT FROM DISTRICT, WHEN — PROCEDURE — COSTS — PETITION FORM. — 1. Territory included in a district that is not being served by such district may be detached from such district provided that there are no outstanding general obligation or special obligation bonds and no contractual obligations of greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of water. If any such bonds or debt is outstanding, and the written consent of the holders of such bonds or the creditors to such debt is obtained, then such territory may be detached in spite of the existence of such bonds or debt, except such consent shall not be required for special obligation bonds if the district has no water lines or other facilities located within any of the territory detached. Detachment may be made by the filing of a petition with the circuit court in which the district was incorporated. The petition shall contain a description of the tract to be detached and a statement that the detachment is in the best interest of the district or the inhabitants and property owners of the territory to be detached, together with the facts supporting such allegation. The petition may be submitted by the district acting through its board of directors, in which case the petition shall be signed by a majority of the board of directors of the district. The petition may also be submitted by voters residing in **or by landowners owning land in** the territory sought to be detached. If there are more than ten voters **and landowners** in such territory, the petition shall be signed by five or more voters [residing in] **or landowners within** the territory; if there are less than ten voters [residing in] **and landowners within** such territory, the petition shall be signed by fifty percent or more of the voters [residing in] **and landowners within** the territory. In the event there are no voters living within such territory proposed to be detached, then the petition may be submitted by owners of more than fifty percent of the land in the territory proposed to be detached, in which case said petition shall be signed by the owners so submitting the petition.

2. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for hearing on the proposed detachment and the clerk shall give notice thereof in three consecutive issues of a weekly newspaper in each county in which any portion of the territory proposed to be detached lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper in each county in which any portion of the tract proposed to be detached lies; the last insertion of the notice to be made not less than seven nor more than twenty-one days before the hearing. Such notice shall be substantially as follows: IN THE CIRCUIT COURT OF COUNTY, MISSOURI NOTICE OF THE FILING OF A PETITION FOR TERRITORIAL DETACHMENT FROM PUBLIC WATER SUPPLY DISTRICT NO. OF COUNTY, MISSOURI.

To all voters and landowners of land within the boundaries of the above-described district:
You are hereby notified:

1. That a petition has been filed in this court for the detachment of the following tracts of land from the above-named public water supply district, as provided by law: (Describe tracts of land).

2. That a hearing on said petition will be held before this court on the day of, 20 .., at .., ..m.

3. Exceptions or objections to the detachment of said tracts from said public water supply district may be made by any voter or landowner of land within the district from which territory is sought to be detached, provided such exceptions or objections are in writing not less than five days prior to the date set for hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of

..... County, Missouri

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions or objections to the detachment of such territory may be made by any voter or landowner within the boundaries of the district, including the territory to be detached. The exceptions or objections shall be in writing and shall specify the grounds upon which they are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration when considering the petition for detachment and the evidence in support of detachment. If the court finds that the detachment will be in the best interest of the district and the inhabitants and landowners of the area to be detached will not be adversely affected or if the court finds that the detachment will be in the best interest of the inhabitants and landowners of the territory to be detached and will not adversely affect the remainder of the district, it shall approve the detachment and grant the petition.

5. If the court approves the detachment, it shall make its order detaching the territory described in the petition from the remainder of the district, or in the event it shall find that only a portion of said territory should be detached, the court shall order such portion detached from the district. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict line changes shall not become effective until the next annual election of a member of the board of directors.

6. A certified copy of the court's order shall be filed in the office of the recorder and in the office of the county clerk in each county in which any of the territory of the district prior to detachment is located, and in the office of the secretary of state. Costs of the proceeding shall be borne by the petitioner or petitioners.

247.040. FORMATION OF PUBLIC WATER SUPPLY DISTRICT — PROCEDURE. — 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters **or owners of real property** within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than [fifteen] **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk

of the circuit court and shall be published in three successive issues of a weekly newspaper or in [twenty successive issues] of a daily newspaper **once a week for three consecutive weeks.**

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter **or owner of real property** in the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so appointed or hereafter elected or appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name and number of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

247.217. CONSOLIDATION, PROCEDURE, PETITION, NOTICE — SUBDISTRICTS, HOW FORMED — ELECTION — DIRECTORS, TERMS, ELIGIBILITY — PROPERTY, HOW HANDLED.

— 1. Any two or more contiguous public water supply districts organized under the provisions of sections 247.010 to 247.220 may be consolidated into a single district by a decree of the circuit court in which the district with the largest acreage was originally incorporated and organized.

2. Proceedings for consolidation of such districts shall be substantially as follows: The board of directors of each of the districts to be consolidated shall authorize, by resolution passed at a regular meeting or a special meeting called for such purpose, its president, on behalf of the district, to petition the circuit court having jurisdiction for consolidation with any one or more other contiguous public water supply districts.

3. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for a hearing thereon and the clerk shall give notice thereof in some newspaper of general circulation in each county in which each of the districts proposed to be consolidated is located.

4. Such notice shall be substantially as follows:

IN THE CIRCUIT COURT OF
COUNTY, MISSOURI
NOTICE OF THE FILING OF A PETITION FOR
CONSOLIDATION OF PUBLIC WATER SUPPLY
DISTRICT NO., OF COUNTY,
MISSOURI, AND PUBLIC WATER SUPPLY DISTRICT
NO., OF COUNTY, MISSOURI
(Additional districts may be named as required.)

To all voters, **landowners, and interested persons** within the boundaries of the above-described public water supply districts:

You are hereby notified:

1. That a petition has been filed in this court for the consolidation of the above-named public water supply districts into one public water supply district, as provided by law.

2. That a hearing on said petition will be held before this court on the..... day of....., [19]20...., at....,m.

3. Exceptions or objections to the consolidation of said districts may be made by any voters **or landowners** of any of such districts proposed to be consolidated, provided such exceptions or objections are filed in writing not less than five days prior to the date set for the hearing on the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of
..... County, Missouri

5. The notice shall be published in three consecutive issues of a weekly newspaper in each county in which any portion of any district proposed to be consolidated lies, or in lieu thereof, in twenty consecutive issues of a daily newspaper in each county in which any portion of any district proposed to be consolidated lies; the last insertion of such notice to be made not less than seven nor more than twenty-one days before the hearing.

6. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

7. Exceptions or objections to the consolidation of such districts may be made by any voter **or landowner** within the boundaries of the proposed district. The exceptions or objections shall be in writing and shall specify the grounds upon which the same are made and shall be filed not later than five days before the date set for hearing the petition. If any such exceptions or objections are filed, the court shall take them into consideration in passing upon the petition for consolidation and shall also consider the evidence in support of the petition. If the court finds that the consolidation will provide for the rendering of necessary water service in the districts, and is in the best interest of the voters **and the landowners** of the district, it shall, by its decree, approve such consolidation. The decree of consolidation shall set an effective date for the consolidation of the districts and shall provide that the proposed consolidated district shall be divided into five subdistricts and shall fix boundary lines of each subdistrict, all of which subdistricts shall have approximately the same area and shall be numbered.

8. The decree of consolidation shall not become final and conclusive until it has been submitted to voters in each of the districts proposed to be included in the consolidated district.

9. If, upon canvass and declaration of the results, it is found and determined that the question has been assented to by a majority of the voters of each district voting on the question, the court shall issue its order declaring the results of the elections, declaring its previous decree of consolidation to be final and conclusive, and in addition, the decree shall provide for an election of a director from each of the subdistricts set forth in the decree of the court as specified in subsection 7 of this section. The terms of office for the directors elected at such election shall be as follows: The director elected from the subdistrict designated by the circuit court as number one shall serve until the next regular election, or until his successor has been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers two and three shall serve until the regular election following the next regular election or until their successors have been elected and qualified; those directors elected from the subdistricts designated by the circuit court as numbers four and five shall serve until the annual regular election following the next two regular elections, or until their successors have been elected and qualified. Thereafter all directors shall be elected as provided by sections 247.010 to 247.220. The election shall be held at least thirty days before the effective date of the consolidation. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction and the court shall thereupon enter its order naming the directors from each subdistrict.

10. The eligibility and requirements for a director for a consolidated district shall be identical with those set forth in section 247.060 and no two members of the board shall reside in the same subdistrict. Any candidate shall have his name imprinted upon the ballot, provided he shall file a declaration of intention to become such a candidate with the clerk of the circuit court.

11. In its final decree, the court shall designate a name for the consolidated district which shall be as follows: Consolidated Public Water Supply District No., of..... County, Missouri.

12. On the effective date of the consolidation of the districts, the newly elected directors shall organize in the same manner as is provided in sections 247.010 to 247.220, and all of such provisions shall apply to consolidated public water supply districts in the same manner as to other public water supply districts.

13. At the time of the effective date of the consolidation, all the property of the original districts shall be combined and administered as one unit, which shall be subject to the liens, liabilities and obligations of the original districts, provided that if any district included in the consolidated district has issued general obligation bonds which are outstanding at the time of the consolidation, any taxes to be levied to pay the bonds and interest thereon shall be levied only upon the property within the original district issuing the bonds as it existed on the date of such issuance. All special obligation or revenue bonds issued by any district included in the consolidated district shall be paid in accordance with the terms thereof, without preference, from the revenue received by the consolidated district.

14. A certified copy of the decrees of the court shall be filed in the office of the recorder and in the office of the county clerk in each county in which any part of the consolidated district is located, and in the office of the secretary of state. Such copies shall be filed by the clerk of the circuit court and the filing fees shall be taxed as costs.

247.220. DISSOLUTION OF DISTRICT — PROCEDURE — ELECTION — DISPOSITION OF PROPERTY AND DEBTS. — 1. Proceedings for the dissolution of a public water supply district shall be substantially the same as proceedings for the formation of such a district, as follows: A petition describing the boundaries of the district sought to be dissolved shall be filed with the clerk of the circuit court of the county wherein the subject district is situate, or with the clerk of the circuit court of the county having the largest acreage within the boundaries of the subject district, in the event that the subject district embraces lands in more than one county. Such petition, in addition to such boundary description, shall allege that further operation of the subject district is inimicable to the best interests of the inhabitants of the district, that the district should, in the interest of the public welfare and safety, be dissolved, that an alternative water supplier is available and better able to supply water to the inhabitants of the district, and such other information as may be useful to the court in determining whether [or not] the petition should be granted and a decree of dissolution entered. Such petition shall **also include a detailed plan for payment of all debt and obligations of the district at the time of dissolution. Such petition shall** be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding and the petition shall be signed by not less than one-fifth of the registered voters from each subdistrict, or fifty registered voters from each subdistrict, whichever is less, within the subject district. The petition shall be verified by at least one of the signers thereof **and shall be served upon the board of directors of the district as provided by law. The district shall be a party, and if the board of directors in its discretion determines that such dissolution is not in the public interest, the district shall oppose such petition and pay all cost and expense thereof.**

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as provided in this section. Thereupon, the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the subject boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than [fifteen] **seven** nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in twenty successive issues of a daily newspaper.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the dissolution of a district may be made by any voter **or landowner** of the [subject] district[;], **and by the district as herein provided[;]**; such exceptions [are] **shall be** filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are filed and the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. **Unless petitioners prove that all debts and financial obligations of the district can be paid in full upon dissolution, the petition shall be dismissed at the cost of the petitioners.**

5. Should the court find that it would not be to the public interest to dissolve a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the petitioners, the court shall enter its interlocutory decree of dissolution which decree

shall provide for the submission of the question to the voters of the district in substantially the following form:

Shall Public Water Supply District be dissolved?

6. The decree of dissolution shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of [four-sevenths] **two-thirds** of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the election authority to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of [four-sevenths] **two-thirds** of the voters of the district voting on such proposition then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of dissolution to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required, the court shall enter a further order declaring such decree of dissolution to be void and of no effect. No appeal shall lie from any of the aforesaid orders. In the event that the court declares the decree of dissolution to be final, as provided in this section, the clerk of the circuit court shall file certified copies of such decree of dissolution and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. Notwithstanding anything in this section to the contrary, no district shall be dissolved until after all of its debts shall have been paid, and the court, in its decree of dissolution, shall provide for the disposition of the property of the district.

260.200. DEFINITIONS. — The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

(3) "City", any incorporated city, town, or village;

(4) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;

(5) "Closure", the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volumes specified in the permit and preparing the area for long-term care;

(6) "Closure plan", plans, designs and relevant data which specify the methods and schedule by which the operator will complete or cease disposal operations, prepare the area for long-term care, and make the area suitable for other uses, to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(7) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(8) "Demolition landfill", a solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water;

(9) "Department", the department of natural resources;

(10) "Director", the director of the department of natural resources;

(11) "District", a solid waste management district established under section 260.305;

(12) "Financial assurance instrument", an instrument or instruments, including, but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted by the applicant to ensure proper closure and postclosure care and corrective action of a solid waste disposal area in the event that the operator fails to correctly perform closure and postclosure care and corrective action requirements, except that the financial test for the corporate guarantee shall not exceed one and one-half times the estimated cost of closure and postclosure. The form and content of the financial assurance instrument shall meet or exceed the requirements of the department. The instrument shall be reviewed and approved or disapproved by the attorney general;

(13) "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

(14) "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

(15) "Household consumer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household consumers or farmers who generate an average of twenty-five gallons per month or less of used motor oil in a calendar year. This section shall not preclude a commercial generator from operating a household consumer used motor oil collection center;

(16) "Household consumer used motor oil collection system", any used motor oil collection center at publicly owned facilities or private locations, any curbside collection of household consumer used motor oil, or any other household consumer used motor oil collection program determined by the department to further the purposes of sections 260.200 to 260.345;

(17) "Infectious waste", waste in quantities and characteristics as determined by the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious; provided, however, that infectious waste does not mean waste treated to department specifications;

(18) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a nominal voltage of at least six volts and of the type intended for use in motor vehicles and watercraft;

(19) "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, [microwave ovens,] conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

(20) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-oxide batteries used primarily in medical equipment;

(21) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(22) "Motor oil", any oil intended for use in a motor vehicle, as defined in section 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion engine;

(23) "Motor vehicle", as defined in section 301.010, RSMo;

(24) "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;

(25) "Permit modification", any permit issued by the department which alters or modifies the provisions of an existing permit previously issued by the department;

(26) "Person", any individual, partnership, corporation, association, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution;

(27) "Postclosure plan", plans, designs and relevant data which specify the methods and schedule by which the operator shall perform necessary monitoring and care for the area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(28) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing;

(29) "Recycled content", the proportion of fiber in a newspaper which is derived from postconsumer waste;

(30) "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;

(31) "Resource recovery", a process by which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(32) "Resource recovery facility", a facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(33) "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;

(34) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;

(35) "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;

(36) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:

(a) A solid waste collection fee imposed at the point of waste collection; or

(b) A solid waste disposal fee imposed at the disposal site;

(37) "Solid waste management area", a solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility, excluding incineration;

(38) "Solid waste management system", the entire process of managing solid waste in a manner which minimizes the generation and subsequent disposal of solid waste, including waste reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume minimization, processing, market development, and disposal of solid wastes;

(39) "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:

(a) A transfer station; or

(b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or

(c) A material recovery facility which operates with or without composting;

(40) "Solid waste technician", an individual who has successfully completed training in the practical aspects of the design, operation and maintenance of a permitted solid waste processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;

(41) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010, RSMo;

(42) "Used motor oil", any motor oil which as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;

(43) "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(44) "Waste tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

(45) "Waste tire collection center", a site where waste tires are collected prior to being offered for recycling or processing and where fewer than five hundred tires are kept on site on any given day;

(46) "Waste tire end-user facility", a site where waste tires are used as a fuel or fuel supplement or converted into a useable product. Baled or compressed tires used in structures, or used at recreational facilities, or used for flood or erosion control shall be considered an end use;

(47) "Waste tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates waste tires;

(48) "Waste tire processing facility", a site where tires are reduced in volume by shredding, cutting, chipping or otherwise altered to facilitate recycling, resource recovery or disposal;

(49) "Waste tire site", a site at which five hundred or more waste tires are accumulated, but not including a site owned or operated by a waste tire end-user that burns waste tires for the generation of energy or converts waste tires to a useful product;

(50) "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

278.258. DETACHMENT FROM WATERSHED SUBDISTRICT, PROCEDURE — CERTIFICATION BY TRUSTEES. — 1. After a watershed subdistrict has been organized and the organization tax pursuant to section 278.250 has been levied, any county in the subdistrict which has not adopted the annual tax pursuant to section 278.250 may detach from the subdistrict upon approval of such detachment of a majority of the qualified voters residing within such subdistrict in such county; however, before such detachment the watershed district trustees shall make arrangements for the county to pay any outstanding indebtedness for services or works of improvement rendered by the subdistrict in such county.

2. Following the entry in the official minutes of the trustees of the watershed district of the detachment of the county, the watershed district trustees shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds in each county in which any portion of the watershed subdistrict lies and with the state soil and water districts commission.

323.060. RETAIL DISTRIBUTORS TO BE REGISTERED — STORAGE CAPACITY REQUIREMENT — NONRESIDENTS TO COMPLY — IMMUNITY FROM LIABILITY, WHEN —

PUBLIC UTILITIES, EXEMPTION. — 1. No person shall engage in this state in the business of selling at retail of liquefied petroleum gas, or in the business of handling or transportation of liquefied petroleum gas over the highways of this state or in the business of installing, **modifying, repairing,** or servicing equipment and appliances for use with liquefied petroleum gas without having first registered with the director of the department of agriculture. No person shall engage in this state in the business of selling at retail of liquefied petroleum gas unless such person maintains and operates one or more storage tanks located in the state of Missouri with a combined capacity of at least eighteen thousand gallons, except that such storage capacity requirements shall apply only to businesses engaged in bulk sales of liquefied petroleum.

2. Nonresidents of the state of Missouri desiring to engage in the business of distribution of liquefied petroleum gases at retail, or the business of installing, repairing or servicing equipment and appliances for use of liquefied petroleum gases shall comply with sections 323.010 to 323.110 and rules and regulations promulgated thereunder.

3. **No person registered pursuant to this section and engaged in this state in the business of selling at retail of liquefied petroleum gas, or in the business of handling or transportation of liquefied petroleum gas over the highways of this state shall be liable for actual or punitive civil damages for injury to persons or property that result from any occurrence caused by the installation, modification, repair, or servicing of equipment and appliances for use with liquefied petroleum gas by any other person unless such registered person had received written notification or had other actual knowledge of such installation, modification, repair, or servicing of equipment and appliances and failed to inspect such installation, modification, repair, or servicing of equipment and appliances within thirty days after receipt of such notice or actual knowledge.**

4. **Nothing in this section is intended to limit the liability of any person for any damages that arise directly from the gross negligence or willful or wanton acts of such person.**

5. All utility operations of public utility companies subject to the safety jurisdiction of the public service commission are exempt from the provisions of this section.

393.847. DEPARTMENT OF NATURAL RESOURCES, JURISDICTION, SUPERVISION, POWERS AND DUTIES — PUBLIC SERVICE COMMISSION JURISDICTION, LIMITATIONS. — 1. Every nonprofit sewer company constructing, maintaining and operating its wastewater lines and treatment facilities shall construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department of natural resources for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit sewer company [so far as it concerns the construction, maintenance and operation of the physical equipment of such company to the extent of providing for the safety of employees and the general public] **and every nonprofit sewer company shall be supervised and regulated by the department of natural resources to the same extent and in the same manner as any other nonprofit corporation engaged in whole or in part in the collection or treatment of wastewater.**

2. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the wastewater facilities, service, rates, financing, accounting or management of any nonprofit sewer company.

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 31, 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).

414.365. PROGRAM ESTABLISHED FOR BIODIESEL FUEL USE IN MODOT VEHICLES, GOALS, RULES.— 1. As used in this section, the following terms mean:

(1) "B-20", a blend of twenty percent by volume biodiesel fuel and eighty percent by volume petroleum-based diesel fuel;

(2) "Biodiesel", fuel as defined in ASTM standard PS121;

(3) "Incremental cost", the difference in cost between blended biodiesel fuel and conventional petroleum-based diesel fuel at the time the blended biodiesel fuel is purchased.

2. On or before October 1, 2003, the Missouri department of transportation shall develop a program that provides for the opportunity to use fuel with at least the biodiesel content of B-20 in its vehicle fleet and heavy equipment that use diesel fuel. Such program shall have the following goals, provided that such program and goals do not prohibit the department from generating and selling EPA credits pursuant to section 414.407:

(1) On or before July 1, 2004, at least fifty percent of the department's vehicle fleet and heavy equipment that use diesel fuel shall use fuel with at least the biodiesel content of B-20, if such fuel is commercially available;

(2) On or before July 1, 2005, at least seventy-five percent of the department's vehicle fleet and heavy equipment that use diesel fuel shall use fuel with at least the biodiesel content of B-20, if such fuel is commercially available.

3. The blended biodiesel fuel shall be presumed to be commercially available if the incremental cost of such fuel is not more than twenty-five cents.

4. Nothing in this section is intended to create a state requirement for biodiesel fuel use in excess of the requirements of the federal National Energy Policy Act of 1992, Pub. L. 102-486; 42 U.S.C. 13251, 13257(o).

5. To the maximum extent practicable, the department shall obtain funding for the incremental cost of the blended biodiesel fuel from the biodiesel fuel revolving fund established in section 414.407.

6. The director of the Missouri department of transportation may promulgate any rules necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.

640.100. COMMISSION, DUTIES, PROMULGATE RULES — POLITICAL SUBDIVISIONS MAY SET CERTAIN ADDITIONAL STANDARDS — CERTAIN DEPARTMENTS TEST WATER SUPPLY, WHEN — FEES, AMOUNT — FEDERAL COMPLIANCE — CUSTOMER FEES, EFFECTIVE, EXPIRES, WHEN. — 1. The safe drinking water commission created in section 640.105 shall

promulgate rules necessary for the implementation, administration and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held by the commission after at least thirty days' prior notice in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity given to the public to be heard; the commission may solicit the views, in writing, of persons who may be affected by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person heard or registered at the hearing, or making written request for notice, shall be given written notice of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All rulemaking authority delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to June 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this chapter or chapter 644, RSMo, shall affect the validity of any rule adopted and promulgated prior to June 9, 1998.

3. The commission shall promulgate rules and regulations for the certification of public water system operators, backflow prevention assembly testers and laboratories conducting tests pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention assembly tester shall satisfactorily complete standard, nationally recognized written and performance examinations designed to ensure that the person is competent to determine if the assembly is functioning within its design specifications. Any such state certification shall satisfy any need for local certification as a backflow prevention assembly tester. However, political subdivisions may set additional testing standards for individuals who are seeking to be certified as backflow prevention assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or its political subdivisions shall only require carbonated beverage dispensers to conform to the backflow protection requirements established in the National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an independent testing laboratory. The commission shall promulgate rules and regulations for collection of samples and analysis of water furnished by municipalities, corporations, companies, state establishments, federal establishments or individuals to the public. The department of natural resources or the department of health and senior services shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo, and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of laboratory services, both within the department of natural resources and the department of health and senior services, laboratory certification and program administration as required by sections 640.100 to 640.140. The laboratory services and program administration fees pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand one hundred service connections, three hundred dollars for supplying less than seven thousand six hundred service connections, five hundred dollars for supplying seven thousand six hundred or more service connections, and five hundred dollars for testing surface water. Such fees shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of natural resources laboratories, department of health and senior services laboratories or laboratories certified by the department of natural resources.

4. The department of natural resources shall establish and maintain an inventory of public water supplies and conduct sanitary surveys of public water systems. Such records shall be available for public inspection during regular business hours.

5. (1) For the purpose of complying with federal requirements for maintaining the primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of public water systems in this state. The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. Each customer of a public water system shall pay an annual fee for each customer service connection.

(2) The annual fee per customer service connection for unmetered customers and customers with meters not greater than one inch in size, shall be based upon the number of service connections in the water system serving that customer, and shall not exceed:

1 to 1,000 connections	\$2.00
1,001 to 4,000 connections	1.84
4,001 to 7,000 connections	1.67
7,001 to 10,000 connections	1.50
10,001 to 20,000 connections	1.34
20,001 to 35,000 connections	1.17
35,001 to 50,000 connections	1.00
50,001 to 100,000 connections84
More than 100,000 connections66.

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed five dollars; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed twenty-five dollars; and for customers with meters greater than four inches in size shall not exceed fifty dollars.

(4) Customers served by multiple connections shall pay an annual user fee based on the above rates for each connection, except that no single facility served by multiple connections shall pay a total of more than five hundred dollars per year.

6. Fees imposed pursuant to subsection 5 of this section shall become effective on August 28, 1992, and shall be collected by the public water system serving the customer. The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5 of this section are state fees. The annual fee shall be enumerated separately from all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be retained by the public water system for the purpose of reimbursing its expenses for billing and collection of such fees.

7. Imposition and collection of the fees authorized in subsection 5 of this section shall be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the federally delegated authority granted to the safe drinking water program within the department of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not be reinstated until the first day of the calendar quarter following the quarter during which such delegated authority is reinstated.

8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1, [2002] 2007.

640.825. BURDEN OF PROOF IN MATTERS HEARD BY DEPARTMENT, EXCEPTIONS. — In all matters heard by the department of natural resources in chapters 260, 278, 444, 640,

643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, the burden of proof shall be upon the department of natural resources or the commission that issued the finding, order, decision or assessment being appealed, except that in matters involving the denial of a permit, license or registration, the burden of proof shall be on the applicant for such permit, license or registration.

643.220. MISSOURI EMISSIONS BANKING AND TRADING PROGRAM ESTABLISHED BY COMMISSION — PROMULGATION OF RULES. — 1. The commission shall promulgate rules establishing a "Missouri Air Emissions Banking and Trading Program" to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency pursuant to the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended. In promulgating such rules, the commission may consider, but not be limited to, inclusion of provisions concerning the definition and transfer of air emissions reduction credits or allowances between mobile sources, area sources and stationary sources, the role of offsets in emissions trading, interstate and regional emissions trading and the mechanisms necessary to facilitate emissions trading and banking, including consideration of the authority of other contiguous states.

2. The program shall:

- (1) Not include any provisions prohibited by federal law;
- (2) Be applicable to criteria pollutants and their precursors as defined by the federal Clean Air Act, as amended;
- (3) Not allow banked or traded emissions credits to be used to meet federal Clean Air Act requirements for hazardous air pollutant standards pursuant to Section 112 of the federal Clean Air Act;
- (4) Allow the banking and trading of criteria pollutants that are also hazardous air pollutants, as defined in Section 112 of the federal Clean Air Act, to the extent that verifiable emissions reductions achieved are in excess of those required to meet hazardous air pollutant emissions standards promulgated pursuant to Section 112 of the federal Clean Air Act;
- (5) Authorize the direct trading of air emission reduction credits or allowances between nongovernmental parties, subject to the approval of the department;
- (6) Allow net air emission reductions from federally approved permit conditions to be transferred to other sources for use as offsets required by the federal Clean Air Act in nonattainment areas to allow construction of new emission sources; and
- (7) Not allow banking of air emission reductions unless they are in excess of reductions required by state or federal regulations or implementation plans.

3. The department shall verify, certify or otherwise approve the amount of an air emissions reduction credit before such credit is banked. Banked credits may be used, traded, sold or otherwise expended within the same nonattainment area, maintenance area or air quality modeling domain in which the air emissions reduction occurred, provided that there will be no resulting adverse impact of air quality.

4. To be creditable for deposit in the Missouri air emissions bank, a reduction in air emissions shall be permanent, quantifiable and federally approved.

5. To be tradeable between air emission sources, air emission reduction credits shall be based on air emission reductions that occur after August 28, 2001, **or shall be credits that exist in the current air emissions bank.**

6. In nonattainment areas, the bank of criteria pollutants and their precursors shall be reduced by three percent annually for as long as the area is classified as a nonattainment area.

644.016. DEFINITIONS. — When used in sections 644.006 to 644.141 and in standards, rules and regulations promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

(1) **"Aquaculture facility", a hatchery, fish farm, or other facility used for the production of aquatic animals that is required to have a permit pursuant to the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;**

[(1)] (2) **"Commission", the clean water commission of the state of Missouri created in section 644.021;**

[(2)] (3) **"Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;**

[(3)] (4) **"Department", the department of natural resources;**

[(4)] (5) **"Director", the director of the department of natural resources;**

[(5)] (6) **"Discharge", the causing or permitting of one or more water contaminants to enter the waters of the state;**

[(6)] (7) **"Effluent control regulations", limitations on the discharge of water contaminants;**

[(7)] (8) **"General permit", a permit written with a standard group of conditions and with applicability intended for a designated category of water contaminant sources that have the same or similar operations, discharges and geographical locations, and that require the same or similar monitoring, and that would be more appropriately controlled pursuant to a general permit rather than pursuant to a site-specific permit;**

[(8)] (9) **"Human sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances;**

[(9)] (10) **"Income" includes retirement benefits, consultant fees, and stock dividends;**

[(10)] (11) **"Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;**

[(11)] (12) **"Permit by rule", a permit granted by rule, not by a paper certificate, and conditioned by the permit holder's compliance with commission rules;**

[(12)] (13) **"Permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of the state of Missouri;**

[(13)] (14) **"Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;**

[(14)] (15) **"Point source", any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged;**

[(15)] (16) **"Pollution", such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life;**

[(16)] (17) **"Pretreatment regulations", limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the commission determines**

are not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment pursuant to any federal water pollution control act or guidelines shall be limited or treated pursuant to this chapter only as required by such act or guidelines;

[(17)] (18) "Residential housing development", any land which is divided or proposed to be divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan for residential housing;

[(18)] (19) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or handling;

[(19)] (20) "Significant portion of his or her income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant to retirement, pension, or similar arrangement;

[(20)] (21) "Site-specific permit", a permit written for discharges emitted from a single water contaminant source and containing specific conditions, monitoring requirements and effluent limits to control such discharges;

[(21)] (22) "Treatment facilities", any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source;

[(22)] (23) "Water contaminant", any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant in such federal act;

[(23)] (24) "Water contaminant source", the point or points of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal water pollution control act, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly;

[(24)] (25) "Water quality standards", specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects;

[(25)] (26) "Waters of the state", all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common and includes waters of the United States lying within the state.

644.036. PUBLIC HEARINGS — RULES AND REGULATIONS, HOW PROMULGATED —

LISTINGS UNDER CLEAN WATER ACT, REQUIREMENTS. — 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536, RSMo.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental Protection Agency for their approval that will result in any waters of this state being classified as impaired shall be adopted by rule pursuant to chapter 536, RSMo. Total maximum daily loads shall not be required for any listed waters that subsequently are determined to meet water quality standards.

644.051. PROHIBITED ACTS — PERMITS REQUIRED, WHEN, FEE — BOND REQUIRED OF PERMIT HOLDERS, WHEN — PERMIT APPLICATION PROCEDURES — RULEMAKING — LIMITATION ON USE OF PERMIT FEE MONEYS.— 1. It is unlawful for any person:

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or installed or established, will be subject to any federal water pollution control act or sections 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the director for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or

sections 644.006 to 644.141 become effective shall make application to the director for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The director shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water pollution control act. If the director determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, the director shall issue a permit with such conditions as he or she deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the director determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, the director shall deny the permit pursuant to the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act.

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule. **Prior to the development or renewal of a general permit or permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions that may be necessary to protect waters of the state. Following the discussions, the director shall finalize a draft permit that considers the comments of the meeting participants and post the draft permit on notice for public comment. The director shall concurrently post with the draft permit an explanation of the draft permit and shall identify types of facilities which are subject to the permit conditions. Affected public or applicants for new general permits, renewed general permits or permits by rule may request a hearing with respect to the new requirements in accordance with this section. If a request for a hearing is received, the commission shall hold a hearing to receive comments on issues of significant technical merit and concerns related to the responsibilities of the Missouri clean water law. The commission shall conduct such hearings in accordance with this section. After consideration of such comments, a final action on the permit shall be rendered. The time between the date of the hearing request and the hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13 of this section.**

5. The director shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit pursuant to any federal water pollution control act. The director or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from

the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

7. In any hearing held pursuant to this section the burden of proof is on the applicant for a permit. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit issued pursuant to this section shall be issued if properly objected to by the federal government or any agency authorized to object pursuant to any federal water pollution control act unless the application does not require any permit pursuant to any federal water pollution control act.

9. Unless a site-specific permit is requested by the applicant, aquaculture facilities shall be governed by a general permit issued pursuant to this section with a fee not to exceed two hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However, any aquaculture facility which materially violates the conditions and requirements of such permit may be required to obtain a site-specific permit.

[9.] 10. No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. Applications for renewal of an operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit.

[10.] 11. Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

[11.] 12. The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

[12.] 13. (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

(2) If the department fails to issue or deny with good cause a construction or operating permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065, RSMo.

(3) Permit fee disputes may be appealed to the commission within thirty days of the date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute appealed to the commission, the commission may order the director to refund the applicant's permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and 536.087, RSMo. A refund of the initial application or annual fee does not waive the applicant's responsibility to pay any annual fees due each year following issuance of a permit.

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

(5) During the department's technical review of the application, the department may request the applicant submit supplemental or additional information necessary for adequate permit review. The department's technical review letter shall contain a sufficient description of the type of additional information needed to comply with the application requirements.

(6) Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to 644.141.

[13.] 14. The department shall respond to all requests for individual certification under Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period established pursuant to applicable federal regulations without request for an extension period unless such extension is determined by the commission to be necessary to evaluate significant impacts on water quality standards and the commission establishes a timetable for completion of such evaluation in a period of no more than one hundred eighty days.

[14.] 15. All permit fees generated pursuant to this chapter shall not be used for the development or expansion of total maximum daily loads studies on either the Missouri or Mississippi rivers.

644.052. PERMIT TYPES, FEES, AMOUNTS — REQUESTS FOR PERMIT MODIFICATIONS — REQUESTS FOR FEDERAL CLEAN WATER CERTIFICATIONS. —

1. Persons with operating permits or permits by rule issued pursuant to this chapter shall pay fees pursuant to subsections 2 to 8 and 12 to 13 of this section. Persons with a sewer service connection to public sewer systems owned or operated by a city, public sewer district, public water district or other publicly owned treatment works shall pay a permit fee pursuant to subsections 10 and 11 of this section.

2. A privately owned treatment works or an industry which treats only human sewage shall annually pay a fee based upon the design flow of the facility as follows:

- (1) One hundred dollars if the design flow is less than five thousand gallons per day;
 - (2) One hundred fifty dollars if the design flow is equal to or greater than five thousand gallons per day but less than six thousand gallons per day;
 - (3) One hundred seventy-five dollars if the design flow is equal to or greater than six thousand gallons per day but less than seven thousand gallons per day;
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- (4) Two hundred dollars if the design flow is equal to or greater than seven thousand gallons per day but less than eight thousand gallons per day;
 - (5) Two hundred twenty-five dollars if the design flow is equal to or greater than eight thousand gallons per day but less than nine thousand gallons per day;
 - (6) Two hundred fifty dollars if the design flow is equal to or greater than nine thousand gallons per day but less than ten thousand gallons per day;
 - (7) Three hundred seventy-five dollars if the design flow is equal to or greater than ten thousand gallons per day but less than eleven thousand gallons per day;
 - (8) Four hundred dollars if the design flow is equal to or greater than eleven thousand gallons per day but less than twelve thousand gallons per day;
 - (9) Four hundred fifty dollars if the design flow is equal to or greater than twelve thousand gallons per day but less than thirteen thousand gallons per day;
 - (10) Five hundred dollars if the design flow is equal to or greater than thirteen thousand gallons per day but less than fourteen thousand gallons per day;
 - (11) Five hundred fifty dollars if the design flow is equal to or greater than fourteen thousand gallons per day but less than fifteen thousand gallons per day;
 - (12) Six hundred dollars if the design flow is equal to or greater than fifteen thousand gallons per day but less than sixteen thousand gallons per day;
 - (13) Six hundred fifty dollars if the design flow is equal to or greater than sixteen thousand gallons per day but less than seventeen thousand gallons per day;
 - (14) Eight hundred dollars if the design flow is equal to or greater than seventeen thousand gallons per day but less than twenty thousand gallons per day;
 - (15) One thousand dollars if the design flow is equal to or greater than twenty thousand gallons per day but less than twenty-three thousand gallons per day;
 - (16) Two thousand dollars if the design flow is equal to or greater than twenty-three thousand gallons per day but less than twenty-five thousand gallons per day;
 - (17) Two thousand five hundred dollars if the design flow is equal to or greater than twenty-five thousand gallons per day but less than thirty thousand gallons per day;
 - (18) Three thousand dollars if the design flow is equal to or greater than thirty thousand gallons per day but less than one million gallons per day; or
 - (19) Three thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.
3. Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site-specific permit shall annually pay:
- (1) Five thousand dollars if the industry is a class IA animal feeding operation as defined by the commission; or
 - (2) For facilities issued operating permits based upon categorical standards pursuant to the Federal Clean Water Act and regulations implementing such act:
 - (a) Three thousand five hundred dollars if the design flow is less than one million gallons per day; or
 - (b) Five thousand dollars if the design flow is equal to or greater than one million gallons per day.
4. Persons who apply for or possess a site-specific permit solely for industrial storm water shall pay an annual fee of:
- (1) One thousand three hundred fifty dollars if the design flow is less than one million gallons per day; or
 - (2) Two thousand three hundred fifty dollars if the design flow is equal to or greater than one million gallons per day.
5. Persons who produce industrial process wastewater who are not included in subsection 2 or 3 of this section shall annually pay:
- (1) One thousand five hundred dollars if the design flow is less than one million gallons per day; or
-

(2) Two thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

6. Persons who apply for or possess a general permit shall pay:

(1) Three hundred dollars for the discharge of storm water from a land disturbance site;

(2) Fifty dollars annually for the operation of a chemical fertilizer or pesticide facility;

(3) One hundred fifty dollars for the operation of an animal feeding operation or a concentrated animal feeding operation;

(4) One hundred fifty dollars annually for new permits for the discharge of process water or storm water potentially contaminated by activities not included in subdivisions (1) to (3) of this subsection. Persons paying fees pursuant to this subdivision with existing general permits on August 27, 2000, and persons paying fees pursuant to this subdivision who receive renewed general permits on the same facility after August 27, 2000, shall pay sixty dollars annually;

(5) Up to two hundred fifty dollars annually for the operation of an aquaculture facility.

7. Requests for modifications to state operating permits on entities that charge a service connection fee pursuant to subsection 10 of this section shall be accompanied by a two hundred-dollar fee. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

8. Requests for state operating permit modifications other than those described in subsection 7 of this section shall be accompanied by a fee equal to twenty-five percent of the annual operating fee assessed for the facility pursuant to this section. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

9. Persons requesting water quality certifications in accordance with Section 401 of the Federal Clean Water Act shall pay a fee of seventy-five dollars and shall submit the standard application form for a Section 404 permit as administered by the U.S. Army Corps of Engineers or similar information required for other federal licenses and permits, except that the fee is waived for water quality certifications issued and accepted for activities authorized pursuant to a general permit or nationwide permit by the U.S. Army Corps of Engineers.

10. Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, or other publicly owned treatment works shall pay an annual fee per water service connection as provided in this subsection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than a total of seven hundred dollars per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly or annual increments, and shall be remitted to the department no less frequently than annually. The fees collected shall not exceed the amounts specified in this subsection and, except as provided in subsection 11 of this section, shall be collected at the specified amounts unless adjusted by the commission in rules. The annual fees shall not exceed:

(1) For sewer systems that serve more than thirty-five thousand customers, forty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(2) For sewer systems that serve equal to or less than thirty-five thousand but more than twenty thousand customers, fifty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(3) For sewer systems that serve equal to or less than twenty thousand but more than seven thousand customers, sixty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(4) For sewer systems that serve equal to or less than seven thousand but more than one thousand customers, seventy cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(5) For sewer systems that serve equal to or less than one thousand customers, eighty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(6) Three dollars for commercial or industrial customers not served by a public water system as defined in chapter 640, RSMo;

(7) Three dollars per water service connection for all other customers with water service connections of less than or equal to one inch excluding taps for fire suppression and irrigation systems;

(8) Ten dollars per water service connection for all other customers with water service connections of more than one inch but less than or equal to four inches, excluding taps for fire suppression and irrigation systems;

(9) Twenty-five dollars per water service connection for all other customers with water service connections of more than four inches, excluding taps for fire suppression and irrigation systems.

11. Customers served by any district formed pursuant to the provisions of section 30(a) of article VI of the Missouri Constitution shall pay the fees set forth in subsection 10 of this section according to the following schedule:

(1) From August 28, 2000, through September 30, 2001, customers of any such district shall pay fifty percent of such fees; and

(2) Beginning October 1, 2001, customers of any such districts shall pay one hundred percent of such fees.

12. Persons submitting a notice of intent to operate pursuant to a permit by rule shall pay a filing fee of twenty-five dollars.

13. For any general permit issued to a state agency for highway construction pursuant to subdivision (1) of subsection 6 of this section, a single fee may cover all sites subject to the permit.

644.578. COMMISSION MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF WATER POLLUTION CONTROL, IMPROVEMENT OF DRINKING WATER, AND STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

644.579. COMMISSION MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF RURAL WATER AND SEWER GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.580. COMMISSION MAY BORROW ADDITIONAL \$20,000,000 FOR PURPOSES OF STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2003, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

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.

Approved July 11, 2002

SB 992 [HCS SB 992]

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

Authorizes Buchanan County to seek a grant from the Contiguous Property Redevelopment Fund.

AN ACT to repeal section 447.721, RSMo, and to enact in lieu thereof two new sections relating to property development.

SECTION

A. Enacting clause.

253.395. Historic preservation revolving fund authorized — definitions — use of fund.

447.721. Contiguous property redevelopment fund created — grants issued to certain counties by department, criteria — rulemaking authority — expiration date.

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

SECTION A. ENACTING CLAUSE. — Section 447.721, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 253.395 and 447.721, to read as follows:

253.395. HISTORIC PRESERVATION REVOLVING FUND AUTHORIZED — DEFINITIONS — USE OF FUND. — 1. As used in this section, the following terms mean:

(1) "Historic properties" or "property", any building, structure, district, area, or site within a municipality's boundaries that is significant in the history, architecture, archaeology, or culture of this state, its communities, or this country, which is eligible for nomination to the National Register of Historic Places;

(2) "Municipality", any town, city, or village that has by ordinance established a historic preservation revolving fund as authorized by this section.

2. Any town, city, or village in the state of Missouri may by ordinance establish a fund for the purpose of protecting and preserving historic properties, such fund to be known as the "Historic Preservation Revolving Fund". All expenses incurred in the acquisition of and all revenues received from the disposition of property as provided in subsections 3 and 4 of this section shall be paid for out of and deposited in the historic preservation revolving fund. Any moneys appropriated and any other moneys made available by gift, grant, bequest, contribution, or otherwise to carry out the purpose of this section, and all interest earned on, and income generated from, moneys in the fund shall be paid to, and deposited in, the historic preservation revolving fund.

3. From the moneys in the historic preservation revolving fund, such municipality may acquire, preserve, restore, hold, maintain, or operate any historic properties, together with such adjacent or associated lands within the municipality's boundaries as may be necessary for their protection, preservation, maintenance, or operation. Any interest in property acquired using the moneys in the historic preservation revolving fund shall be limited to that estate, agency, interest, or term deemed by such municipality to be reasonably necessary for the continued protection or preservation of the property. The moneys in this fund may be used to acquire the fee simple title, but where such municipality finds that a lesser interest, including any development right, negative or affirmative easement in gross or appurtenant covenant, lease or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired. Property may be acquired by gift, grant, bequest, devise, lease, purchase, or otherwise, but not by condemnation.

4. Such municipality may acquire or, in the case of property on which moneys from this fund have been expended, dispose of the fee or lesser interest to any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. In all cases where property on which money from this fund has been expended is conveyed or leased, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions as may be agreed upon between the municipality and the grantee or lessee to operate, maintain, restore, or repair such property. Any conveyance or lease shall contain a reversion clause providing that, in the event the historic property is not operated, maintained, restored, and repaired in accordance with the provisions of this section or in such a way as to insure its preservation, title, and control of such property shall immediately revert to and vest in the municipality.

447.721. CONTIGUOUS PROPERTY REDEVELOPMENT FUND CREATED — GRANTS ISSUED TO CERTAIN COUNTIES BY DEPARTMENT, CRITERIA — RULEMAKING AUTHORITY — EXPIRATION DATE. — 1. There is hereby created in the state treasury the "Contiguous Property Redevelopment Fund", which shall consist of all moneys appropriated to the fund, all moneys required by law to be deposited in the fund, and all gifts, bequests or donations of any kind to the fund. The fund shall be administered by the department of economic development. Subject to appropriation, the fund shall be used solely for the administration of and the purposes described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the general revenue fund at the end of the biennium; provided, however, that all moneys in the fund on August 28, 2006, shall be transferred to the general revenue fund and the fund shall be abolished as of that date. All interest and moneys earned on investments from moneys in the fund shall be credited to the fund.

2. The governing body of any city not within a county, any county of the first classification without a charter form of government and a population of more than two hundred seven thousand but less than three hundred thousand, any county of the first classification with a population of more than nine hundred thousand, **any county of the first classification without a charter form of government and with a population of more than eighty-five thousand nine hundred but less than eighty-six thousand**, any city with a population of more than three hundred fifty thousand that is located in more than one county or any county of the first classification with a charter form of government and a population of more than six hundred thousand but less than nine hundred thousand may apply to the department of economic development for a grant from the contiguous property redevelopment fund. The department of

economic development may promulgate the form for such applications in a manner consistent with this section. Grants from the fund may be made to the governing body to assist the body both acquiring multiple contiguous properties within such city and engaging in the initial redeveloping of such properties for future use as private enterprise. For purposes of this section, "initial redeveloping" shall include all allowable costs, as that term is defined in section 447.700, and any other costs involving the improvement of the property to a state in which its redevelopment will be more economically feasible than such property would have been if such improvements had not been made.

3. In awarding grants pursuant to this section, the department shall give preference to those projects which propose the assembly of a greater number of acreage than other projects and to those projects which show that private interest exists for usage of the property once any redevelopment aided by grants pursuant to this section is completed.

4. The department of economic development may promulgate rules for the enforcement of this section. [No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

5. The provisions of this section shall expire on August 28, 2006.

Approved July 12, 2002

SB 997 [SCS SB 997]

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

Modifies duties of county collectors with respect to financial institutions.

AN ACT to repeal section 140.110, RSMo, and to enact in lieu thereof one new section relating to collection of back taxes.

SECTION

A. Enacting clause.

140.110. Collection of back taxes, payments applied, how, exceptions — removal of lien.

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

SECTION A. ENACTING CLAUSE. — Section 140.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 140.110, to read as follows:

140.110. COLLECTION OF BACK TAXES, PAYMENTS APPLIED, HOW, EXCEPTIONS — REMOVAL OF LIEN. — 1. [The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes,

as charged against the tract of land or town lot described in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.

2. Any payment for personal property taxes received by the county collector shall first be applied to any back delinquent personal taxes on the back tax book before a county collector accepts any payment for all or any part of personal property taxes due and assessed on the current tax book.

3. Any payment for real property taxes received by the county collector shall first be applied to back delinquent taxes on the same individual parcel of real estate on the back tax book before a county collector accepts payment for real property taxes due and assessed on the current tax book.

4. Subsection 3 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.] **The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes, as charged against the tract of land or town lot described in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.**

2. Any payment for personal property taxes received by the county collector shall first be applied to any back delinquent personal taxes on the back tax book before a county collector accepts any payment for all or any part of personal property taxes due and assessed on the current tax book.

3. Any payment for real property taxes received by the county collector shall first be applied to back delinquent taxes on the same individual parcel of real estate on the back tax book before a county collector accepts payment for real property taxes due and assessed on the current tax book.

4. Subsection 3 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.

Approved July 3, 2002

SB 1001 [SB 1001]

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

Requires all counties or St. Louis to participate in funding the Sheriffs' Retirement System if participating in the system.

AN ACT to amend chapter 57, RSMo, by adding thereto one new section relating to sheriff's retirement.

SECTION

- A. Enacting clause.
57.962. Sheriff's retirement system, election to be subject to by counties and St. Louis City permitted.
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Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 57, RSMo, is amended by adding thereto one new section, to be known as section 57.962, to read as follows:

57.962. SHERIFF'S RETIREMENT SYSTEM, ELECTION TO BE SUBJECT TO BY COUNTIES AND ST. LOUIS CITY PERMITTED. — **Other provisions of law to the contrary notwithstanding, any county or city not within a county who has elected or elects in the future to come under the provisions of sections 57.949 to 57.997 shall, after August 28, 2002, or on the date that such election is approved by the board of directors of the retirement system, whichever later occurs, be subject to the provisions of section 57.955.**

Approved June 21, 2002

SB 1009 [HCS SS SCS SB 1009]

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 companies to invest in certain businesses.

AN ACT to repeal sections 375.330, 375.345, 376.307, 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 investments by insurance companies.

SECTION

- A. Enacting clause.
- 375.330. Purchase and ownership of real estate.
- 375.345. Derivative transactions permitted, conditions — definitions — rules.
- 376.307. Limits on investments which are not eligible for state deposit.
- 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 375.330, 375.345, 376.307, 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 375.330, 375.345, 376.307, 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:

375.330. 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.

375.345. DERIVATIVE TRANSACTIONS PERMITTED, CONDITIONS — DEFINITIONS — RULES.— 1. As used in this section, the following words and terms mean:

(1) ["Call option", an exchange-traded option contract under which the holder has the right to buy (or to make a cash settlement in lieu thereof) a fixed number of shares of stock, a fixed amount of an underlying security, or an index of underlying securities at a stated price on or before a fixed expiration date;

(2) "Commodity Futures Trading Commission", the federal regulatory agency charged and empowered under the Commodity Futures Trading Commission Act of 1974, as amended, with the regulation of futures trading in commodities;

(3) "Financial futures contract", an exchange-traded agreement to make or take delivery of (or to make cash settlement in lieu thereof) a fixed amount of an underlying security, or an index of underlying securities, on a specified date or during a specified period of time, or a call or put option on such an agreement, made through a registered futures commission merchant on a board of trade which has been designated by the Commodity Futures Trading Commission as a contract market. Such financial futures contracts shall include the following categories: United States treasury bills, bonds and notes; securities or pools of securities issued by the Government National Mortgage Association; bank certificates of deposit; Standard and Poor's 500 Stock Price Index; NYSE Composite Index; KC Value Line Index; and such other agreements which have been approved by and which are governed by the rules and regulations of the Commodity Futures Trading Commission and the respective contract markets on which such financial futures contracts are traded;

(4) "Margin", any type of deposit or settlement made or required to be made with a futures commission merchant, clearinghouse, or safekeeping agent to insure performance of the terms of the financial futures contract. For the purposes of this section, "margin" includes initial, maintenance and variation margins as such terms are commonly and customarily employed in the futures industry;

(5) "Put option", an exchange-traded option contract under which the holder has the right to sell (or to make a cash settlement in lieu thereof) a fixed number of shares of stock, fixed amount of an underlying security, or an index of underlying securities at a stated price on or before a fixed expiration date;

(6) "Securities and Exchange Commission", the federal regulatory agency charged and empowered under the Securities Exchange Act of 1934, as amended, with the regulation of trading in securities; and

(7) "Underlying security", the security subject to being purchased or sold upon exercise of a call option or put option, or the security subject to delivery under a financial futures contract.]

"Admitted assets", assets permitted to be reported as admitted assets on the statutory financial statement of the insurance company most recently required to be filed with the director, but excluding assets of separate accounts, the investments of which are not subject to the provisions of law governing the general investment account of the insurance company;

(2) "Cap", an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price, level, performance, or value of one or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price;

(3) "Collar", an agreement to receive payments as the buyer of an option, cap, or floor and to make payments as the seller of a different option, cap, or floor;

(4) "Counterparty exposure amount":

(a) The amount of credit risk attributable to an over-the-counter derivative instrument. The amount of credit risk equals:

a. The market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurance company; or

b. Zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurance company;

(b) If over-the-counter derivative instruments are entered into under a written master agreement which provides for netting of payments owed by the respective parties, and the domicile of the counterparty is either within the United States or within a foreign jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting, the net amount of credit risk shall be the greater of zero or the net sum of:

a. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurance company; and

b. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurance company to the business entity;

(c) For open transactions, market value shall be determined at the end of the most recent quarter of the insurance company's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurance company or placed in escrow by one or both parties;

(5) "Derivative instrument", an agreement, option, instrument, or a series or combination thereof that makes, takes delivery of, assumes, relinquishes, or makes a cash settlement in lieu of a specified amount of one or more underlying interests, or that has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests. Derivative instruments also include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures and any other agreements, options or instruments substantially similar thereto, and any other agreements, options, or instruments permitted under rules or orders promulgated by the director;

(6) "Derivative transaction", a transaction involving the use of one or more derivative instruments;

(7) "Director", the director of the department of insurance of this state;

(8) "Floor", an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance, or value of one or more underlying interests;

(9) "Forward", an agreement other than a future to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of, one or more underlying interests, but not including spot transactions effected within customary settlement periods, when issued purchases or other similar cash market transactions;

(10) "Future", an agreement traded on an exchange to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests and which includes an insurance future;

(11) "Hedging transaction", a derivative transaction that is entered into and maintained to reduce:

(a) The risk of economic loss due to a change in the value, yield, price, cash flow or quantity of assets or liabilities that the insurance company has acquired or incurred or anticipates acquiring or incurring;

(b) The currency exchange rate risk or the degree of exposure as to assets or liabilities that the insurance company has acquired or incurred or anticipates acquiring or incurring; or

(c) Risk through such other derivative transactions as may be specified to constitute hedging transactions by rules or orders adopted by the director;

(12) "Income generation transaction":

(a) A derivative transaction involving the writing of covered call options, covered put options, covered caps or covered floors that is intended to generate income or enhance return; or

(b) Such other derivative transactions as may be specified to constitute income generation transactions in rules or orders adopted by the director;

(13) "Initial margin", the amount of cash, securities or other consideration initially required to be deposited to establish a futures position;

(14) "NAIC", the National Association of Insurance Commissioners;

(15) "Option", an agreement giving the buyer the right to buy or receive, sell or deliver, enter into, extend, terminate or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests;

(16) "Over-the-counter derivative instrument", a derivative instrument entered into with a business entity other than through an exchange or clearinghouse;

(17) "Potential exposure", the amount determined in accordance with the NAIC Annual Statement Instructions;

(18) "Replication transaction", a derivative transaction effected either separately or in conjunction with cash market investments included in the insurer's investment portfolio and intended to replicate the investment characteristic of another authorized transaction, investment or instrument or to operate as a substitute for cash market transactions. A derivative transaction that is entered into as a hedging transaction or an income generation transaction shall not be considered a replication transaction;

(19) "SVO", the Securities Valuation Office of the NAIC or any successor office established by the NAIC;

(20) "Swap", an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance or value of one or more underlying interests;

(21) "Underlying interest", the assets, liabilities, other interests, or a combination thereof underlying a derivative instrument, such as any one or more securities, currencies, rates, indices, commodities or derivative instruments;

(22) "Warrant", an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement.

2. [The purchase and sale of put options or call options may take place] An insurance company may, directly or indirectly through an investment subsidiary, engage in derivative transactions pursuant to this section under the following conditions:

(1) [An insurance company may purchase put options or sell call options with regard to underlying securities owned by the insurance company, underlying securities which the insurance company may reasonably expect to obtain through exercise of warrants or conversion rights

owned by the insurance company at the time the put option is purchased or the call option is sold, or to reduce the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in the normal course of business. Such assets or liabilities must be subject to an economic risk, such as changing interest rates or prices.

(2) An insurance company may sell put options or purchase call options to reduce the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in the normal course of business, or to offset obligations and rights of the insurance company under other options held by the insurance company pertaining to the same underlying securities, or index of underlying securities.

(3) An insurance company may purchase or sell put options or call options only on underlying securities, or an index of underlying securities, which are eligible for investment by an insurance company under the laws of the state of Missouri.

(4) An insurance company may purchase or sell put or call options only through an exchange which is registered with the Securities and Exchange Commission as a national securities exchange pursuant to the provisions of the Securities Exchange Act of 1934, as amended.

(5) An insurance company shall not purchase call options or sell put options, if such purchase or sale could result in the acquisition of an amount of underlying securities which, when aggregated with current holdings, exceeds applicable limitations imposed under the laws of the state of Missouri for investment in those particular underlying securities by the type or kind of insurance company involved.

(6) The premiums paid for all option contracts purchased, less the premiums received for all option contracts sold, plus amounts calculated pursuant to subdivision (3) of subsection 3 of this section, shall not at any one time exceed in the aggregate five percent of the insurance company's admitted assets.

3. The purchase and sale of financial futures contracts may take place under the following conditions:

(1) An insurance company may purchase or sell financial futures contracts for the purpose of hedging against the economic risk associated with an insurance company asset or liability, group of such assets or liabilities, or assets, liabilities or groups of assets or liabilities reasonably expected to be acquired or incurred by the insurance company in its normal course of business. Such assets or liabilities must be subject to an economic risk, such as changing interest rates or prices.

(2) An insurance company shall not purchase or sell financial futures contracts or options on such contracts, if such purchase or sale could result in the acquisition of an amount of underlying securities which, when aggregated with current holdings, exceeds applicable limitations imposed under the laws of the state of Missouri for investment in those particular underlying securities by the type or kind of insurance company involved.

(3) For all purchased or sold financial futures contracts together, plus amounts calculated pursuant to subdivision (6) of subsection 2 of this section, an insurance company shall not invest at any one time an aggregate amount of more than five percent of its admitted assets. For the purposes of transactions in financial futures contracts, such admitted assets limitation shall be calculated by taking the net asset value of the property used to margin the financial futures contract positions, plus option premiums paid on financial futures contracts, less option premiums received on financial futures contracts.

4.] In general:

(a) An insurance company may use derivative instruments pursuant to this chapter to engage in hedging transactions and certain income generation transactions;

(b) Upon request, an insurance company shall demonstrate to the director, the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses;

(2) An insurance company shall only maintain its position in any outstanding derivative instrument used as part of a hedging transaction for as long as the hedging transaction continues to be effective;

(3) An insurance company may enter into hedging transactions if as a result of and after giving effect to the transaction:

(a) The aggregate statement value of options, caps, floors and warrants not attached to another financial instrument purchased and used in hedging transactions then engaged in by the insurer does not exceed seven and one-half percent of its admitted assets;

(b) The aggregate statement value of options, caps and floors written in hedging transactions then engaged in by the insurer does not exceed three percent of its admitted assets; and

(c) The aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions then engaged in by the insurer does not exceed six and one-half percent of its admitted assets;

(4) An insurance company may only enter into the following types of income generation transactions if as a result of and after giving effect to an income generation transaction, the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, shall not exceed ten percent of its admitted assets:

(a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;

(b) Sales of covered call options on equity securities if the insurance company holds in its portfolio or can immediately acquire through the exercise of options, warrants or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold;

(c) Sales of covered puts on investments that the insurance company is permitted to acquire under the applicable insurance laws of the state, if the insurance company has escrowed or entered into a custodian agreement segregating cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or

(d) Sales of covered caps or floors if the insurance company holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding;

(5) An insurance company may use derivative instruments for replication transactions only after the director promulgates reasonable rules that set forth methods of disclosure, reserving for risk-based capital, and determining the asset valuation reserve for these instruments. Any asset being replicated is subject to all the provisions and limitations on the making thereof specified in chapters 375, 376, and 379, RSMo, with respect to investments by the insurer as if the transaction constituted a direct investment by the insurer in the replicated asset;

(6) An insurance company shall include all counterparty exposure amounts in determining compliance with this state's single-entity investment limitations;

(7) The director may approve, by rule or order, additional transaction conditions involving the use of derivative instruments for other risk management purposes.

3. Written investment policies and recordkeeping procedures shall be approved by the board of directors of the insurance company or by a committee authorized by such board before the insurance company may engage in the practices and activities authorized by this section. These policies and procedures must be specific enough to define and control permissible and suitable investment strategies with regard to [put options, call options, and financial futures contracts] **derivative transactions** with a view toward the protection of the policyholders. The minutes of any such committee shall be recorded and regular reports of such committee shall be submitted to the board of directors.

[5.] 4. The director [of the department of insurance] may promulgate **reasonable** rules[, guidelines] and regulations **pursuant to the provisions of chapter 536, RSMo, not inconsistent with this section and any other insurance laws of this state**, establishing standards and requirements relating to practices and activities authorized in this section, **including, but not limited to, rules which impose financial solvency standards, valuation standards, and reporting requirements.**

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.

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 376.1130 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 376.1130 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 respect 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 376.1130 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 376.1130;**

(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 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 376.1130 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 376.1130 are not intended to supersede the obligations of entities subject to the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1130 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 376.1121 to 376.1130, 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 376.1121 to 376.1130 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 376.1121 to 376.1130.

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 376.1121 to 376.1130** 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 of 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 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 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 such 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 a 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 section 376.1121 to 376.1130 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 10, 2002

SB 1011 [SB 1011]

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

Removes references to used tires from the waste tire law.

AN ACT to repeal section 260.270, RSMo, and to enact in lieu thereof two new sections relating to waste tires, with penalty provisions.

SECTION

A. Enacting clause.

- 260.270. Waste tires, prohibited activities — penalties — site owners, no new waste tire sites permitted, when, exception — registration required, duty to inform department, contents — rules and regulations — permit fees — duties of department — inventory of processed waste tires not to exceed limitation — auto dismantler, limited storage of tires allowed — recovered rubber, use by transportation department, how.
1. Emission restrictions for coal-fired cyclone boilers — expiration date.

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

SECTION A. ENACTING CLAUSE. — Section 260.270, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.270 and 1, to read as follows:

260.270. WASTE TIRES, PROHIBITED ACTIVITIES — PENALTIES — SITE OWNERS, NO NEW WASTE TIRE SITES PERMITTED, WHEN, EXCEPTION — REGISTRATION REQUIRED, DUTY TO INFORM DEPARTMENT, CONTENTS — RULES AND REGULATIONS — PERMIT FEES — DUTIES OF DEPARTMENT — INVENTORY OF PROCESSED WASTE TIRES NOT TO EXCEED LIMITATION — AUTO DISMANTLER, LIMITED STORAGE OF TIRES ALLOWED — RECOVERED RUBBER, USE BY TRANSPORTATION DEPARTMENT, HOW. — 1. (1) It shall be unlawful for any person to haul for commercial profit, collect, process, or dispose of waste tires in the state except as provided in this section. This section shall not be construed to prohibit [used or] waste tires from being hauled to a lawfully operated facility in another state. Waste tires shall be collected at a waste tire site, waste tire processing facility, waste tire end-user facility, or a waste tire collection center. A violation of this subdivision shall be a class C misdemeanor for the first violation. A second and each subsequent violation shall be a class A misdemeanor. A third and each subsequent violation, in addition to other penalties authorized by law, may be punishable by a fine not to exceed five thousand dollars and restitution may be ordered by the court.

(2) A person shall not maintain a waste tire site unless the site is permitted by the department of natural resources for the proper and temporary storage of waste tires or the site is an integral part of the person's permitted waste tire processing facility or registered waste tire end-user facility. No new waste tire sites shall be permitted by the department after August 28, 1997, unless they are located at permitted waste tire processing facilities or registered waste tire end-user facilities. A person who maintained a waste tire site on or before August 28, 1997, shall not accept any quantity of additional waste tires at such site after August 28, 1997, unless the site is an integral part of the person's waste tire processing or end-user facility, or unless the person who maintains such site can verify that a quantity of waste tires at least equal to the number of additional waste tires received was shipped to a waste tire processing or end-user facility within thirty days after receipt of such additional waste tires.

(3) A person shall not operate a waste tire processing facility unless the facility is permitted by the department. A person shall not maintain a waste tire end-user facility unless the facility is registered by the department. The inventory of unprocessed waste tires on the premises of a waste tire processing or end-user facility shall not exceed the estimated inventory that can be processed or used in six months of normal and continuous operation. This estimate shall be based on the volume of tires processed or used by the facility in the last year or the

manufacturer's estimated capacity of the processing or end-user equipment. This estimate may be increased from time to time when new equipment is obtained by the owner of the facility, and shall be reduced if equipment used previously is removed from active use. The inventory of processed waste tires on the premises of a waste tire processing or end-user facility shall not exceed two times the permitted inventory of an equivalent volume of unprocessed waste tires.

(4) Any person selling new, used, or remanufactured tires at retail shall accept, at the point of transfer, in a quantity equal to the number of tires sold, [used or] waste tires from customers, if offered by such customers. Any person accepting [used or] waste tires may charge a reasonable fee reflecting the cost of proper management of any waste tires accepted; except that the fee shall not exceed two dollars per waste tire for any tire designed for a wheel of a diameter of sixteen inches or less and which tire is required to be accepted on a one-for-one basis at the time of a retail sale pursuant to this subdivision. All tire retailers or other businesses that generate waste tires shall use a waste tire hauler permitted by the department, except that businesses that generate or accept waste tires in the normal course of business may haul such waste tires without a permit, if such hauling is performed without any consideration and such business maintains records on the waste tires hauled as required by sections 260.270 to 260.276. Retailers shall not be liable for illegal disposal of waste tires after such waste tires are delivered to a waste tire hauler, waste tire collection center, waste tire site, waste tire processing facility or waste tire end-user facility if such entity is permitted by the department of natural resources.

(5) It shall be unlawful for any person to transport waste tires for consideration within the state without a permit.

(6) Waste tires may not be deposited in a landfill unless the tires have been cut, chipped or shredded.

2. Within six months after August 28, 1990, owners and operators of any waste tire site shall provide the department of natural resources with information concerning the site's location, size, and approximate number of waste tires that have been accumulated at the site and shall initiate steps to comply with sections 260.270 to 260.276.

3. The department of natural resources shall promulgate rules and regulations pertaining to collection, storage and processing and transportation of waste tires and such rules and regulations shall include:

(1) Methods of collection, storage and processing of waste tires. Such methods shall consider the general location of waste tires being stored with regard to property boundaries and buildings, pest control, accessibility by fire-fighting equipment, and other considerations as they relate to public health and safety;

(2) Procedures for permit application and permit fees for waste tire sites and commercial waste tire haulers, and by January 1, 1996, procedures for permitting of waste tire processing facilities and registration of waste tire end-user facilities. The only purpose of such registration shall be to provide information for the documentation of waste tire handling as described in subdivision (5) of this subsection, and registration shall not impose any additional requirements on the owner of a waste tire end-user facility;

(3) Requirements for performance bonds or other forms of financial assurance for waste tire sites;

(4) Exemptions from the requirements of sections 260.270 to 260.276; and

(5) By January 1, 1996, requirements for record-keeping procedures for retailers and other businesses that generate waste tires, waste tire haulers, waste tire collection centers, waste tire sites, waste tire processing facilities, and waste tire end-user facilities. Required record keeping shall include the source and number or weight of tires received and the destination and number of tires or weight of tires or tire pieces shipped or otherwise disposed of and such records shall be maintained for at least three years following the end of the calendar year of such activity. Detailed record keeping shall not be required where any charitable, fraternal, or other nonprofit organization conducts a program which results in the voluntary cleanup of land or water resources or the turning in of waste tires.

4. Permit fees for waste tire sites and commercial waste tire haulers shall be established by rule and shall not exceed the cost of administering sections 260.270 to 260.275. Permit fees shall be deposited into an appropriate subaccount of the solid waste management fund.

5. The department shall:

(1) Encourage the voluntary establishment of waste tire collection centers at retail tire selling businesses and waste tire processing facilities; and

(2) Investigate, locate and document existing sites where tires have been or currently are being accumulated, and initiate efforts to bring these sites into compliance with rules and regulations promulgated pursuant to the provisions of sections 260.270 to 260.276.

6. Any person licensed as an auto dismantler and salvage dealer under chapter 301, RSMo, may without further license, permit or payment of fee, store but shall not bury on his property, up to five hundred waste tires that have been chipped, cut or shredded, if such tires are only from vehicles acquired by him, and such tires are stored in accordance with the rules and regulations adopted by the department pursuant to this section. Any tire retailer or wholesaler may hold more than five hundred waste tires for a period not to exceed thirty days without being permitted as a waste tire site, if such tires are stored in a manner which protects human health and the environment pursuant to regulations adopted by the department.

7. Notwithstanding any other provisions of sections 260.270 to 260.276, a person who leases or owns real property may use waste tires for soil erosion abatement and drainage purposes in accordance with procedures approved by the department, or to secure covers over silage, hay, straw or agricultural products.

8. The department of transportation shall, beginning July 1, 1991, undertake, as part of its currently scheduled highway improvement projects, demonstration projects using recovered rubber from waste tires as surfacing material, structural material, subbase material and fill, consistent with standard engineering practices. The department shall evaluate the efficacy of using recovered rubber in highway improvements, and shall encourage the modification of road construction specifications, when possible, for the use of recovered rubber in highway improvement projects.

9. The director may request a prosecuting attorney to institute a prosecution for any violation of this section. In addition, the prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of this section.

SECTION 1. EMISSION RESTRICTIONS FOR 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.

Approved July 2, 2002

SB 1012 [HCS SB 1012]

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 period of payments from ten to twenty years on guaranteed energy cost savings contracts.

AN ACT to repeal section 8.231, RSMo, and to enact in lieu thereof one new section relating to guaranteed energy cost savings contracts.

SECTION

A. Enacting clause.

8.231. Guaranteed energy cost savings contracts, definitions — bids required, when — proposal request to include what — contract, to whom awarded, to contain certain guarantees.

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

SECTION A. ENACTING CLAUSE. — Section 8.231, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 8.231, to read as follows:

8.231. GUARANTEED ENERGY COST SAVINGS CONTRACTS, DEFINITIONS — BIDS REQUIRED, WHEN — PROPOSAL REQUEST TO INCLUDE WHAT — CONTRACT, TO WHOM AWARDED, TO CONTAIN CERTAIN GUARANTEES. — 1. For purposes of this section, the following terms shall mean:

(1) "Energy cost savings measure", a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one or more of the following:

(a) Insulation of the building structure or systems within the building;

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control system;

(d) Heating, ventilating or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Indoor air quality improvements to increase air quality that conforms to the applicable state or local building code requirements;

(g) Energy recovery systems;

(h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(i) Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes; or

(j) Building operation programs that reduce the operating costs;

(2) "Governmental unit", a state government agency, department, institution, college, university, technical school, legislative body or other establishment or official of the executive, judicial or legislative branches of this state authorized by law to enter into contracts, including all local political subdivisions such as counties, municipalities, public school districts or public service or special purpose districts;

(3) "Guaranteed energy cost savings contract", a contract for the implementation of one or more such measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the energy cost savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed energy cost savings contracts shall be considered public works contracts to the extent that they provide for capital improvements to existing facilities;

(4) "Operational savings", expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(5) "Qualified provider", a person or business experienced in the design, implementation and installation of energy cost savings measures;

(6) "Request for proposals" or "RFP", a negotiated procurement.

2. No governmental unit shall enter into a guaranteed energy cost savings contract until competitive proposals therefor have been solicited by the means most likely to reach those contractors interested in offering the required services, including but not limited to direct mail solicitation, electronic mail and public announcement on bulletin boards, physical or electronic. The request for proposal shall include the following:

(1) The name and address of the governmental unit;

(2) The name, address, title and phone number of a contact person;

(3) The date, time and place where proposals shall be received;

(4) The evaluation criteria for assessing the proposals; and

(5) Any other stipulations and clarifications the governmental unit may require.

3. The governmental unit shall award a contract to the qualified provider that provides the lowest and best proposal which meets the needs of the unit if it finds that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount of energy or operational savings, or both, within a [ten-year] **fifteen-year** period from the date installation is complete, if the recommendations in the proposal are followed. The governmental unit shall have the right to reject any and all bids.

4. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed the costs of the energy cost savings measures, adjusted for inflation, within [ten] **fifteen** years. The qualified provider shall reimburse the governmental unit for any shortfall of guaranteed energy cost savings on an annual basis. The guaranteed energy cost savings contract may provide for payments over a period of time, not to exceed [ten] **fifteen** years, subject to appropriation of funds therefor.

5. The governmental unit shall include in its annual budget and appropriations measures for each fiscal year any amounts payable under guaranteed energy savings contracts during that fiscal year.

6. A governmental unit may use designated funds for any guaranteed energy cost savings contract including purchases using installment payment contracts or lease purchase agreements, so long as that use is consistent with the purpose of the appropriation.

7. Notwithstanding any provision of this section to the contrary, a not-for-profit corporation incorporated pursuant to chapter 355, RSMo, and operating primarily for educational purposes in cooperation with public or private schools shall be exempt from the provisions of this section.

Approved June 13, 2002

SB 1015 [SCS SB 1015]

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

Revises long-term contract provisions at state parks and creates Endowment Fund for Arrow Rock State Park.

AN ACT to repeal sections 253.080 and 253.082, RSMo, relating to state parks, and to enact in lieu thereof four new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 253.080. Director of natural resources may construct and operate facilities and collect fees for usage — concession contracts — limitations — renewal of contracts.
- 253.082. Fund established for each facility head at state parks and scenic sites — purpose of fund — limitation, rules.
- 253.092. Arrow Rock state historic site endowment fund created, expenditure of moneys in fund — state treasurer to be custodian.
- 253.095. Interpretive or education services, agreements entered into with not-for-profit organizations for state parks, space provided — net proceeds retained by organization.

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

SECTION A. ENACTING CLAUSE. — Sections 253.080 and 253.082, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 253.080, 253.082, 253.092 and 253.095, to read as follows:

253.080. DIRECTOR OF NATURAL RESOURCES MAY CONSTRUCT AND OPERATE FACILITIES AND COLLECT FEES FOR USAGE — CONCESSION CONTRACTS — LIMITATIONS — RENEWAL OF CONTRACTS. — 1. The director of the department of natural resources may construct, establish and operate suitable public services, privileges, conveniences and facilities on any land, site or object under the department's jurisdiction and control, and may charge and collect reasonable fees for the use of the same. The director may charge reasonable fees for supplying services on state park areas. Any facilities so constructed under this provision shall only be done by appropriated funds.

2. The director may award by contract to any suitable person, persons, corporation or association the right to construct, establish and operate public services, privileges, conveniences and facilities on any land, site or object under the department's control for a period not to exceed twenty-five years with a renewal option, and may supervise and regulate any and all charges and fees of operations by private enterprise for supplying services and operating facilities on state park areas.

3. All contracts awarded under this section shall be entered into upon the basis of competitive sealed bids. A sworn financial statement shall accompany each bid, and all contracts shall be let by the director at a regular meeting after public notice of the time of the letting. All bids submitted prior to the opening of the meeting shall be considered. Advertisements for bids in daily or weekly newspapers shall be made by the director. The director shall accept the bid most favorable to the state from a responsible and reputable person but may, for good cause, reject any bid.

4. [No contract for a period of ten years or more or a renewal thereof for such period, as provided in subsection 2 of this section, shall be finally awarded until approved by the general assembly by concurrent resolution considered and adopted as other concurrent resolutions of the general assembly.] **The director shall not enter into a contract or a renewal for a contract as provided in subsection 2 of this section for a period in excess of ten years unless the director determines that the extended contract period is necessary to allow the contractor to make substantial capital or other improvements to the site subject to the contract and such improvements are of sufficient value to the state to necessitate the longer contract term.**

5. A good and sufficient bond conditioned upon the faithful performance of the contract and compliance with this law shall be required of all contractors, except that if the contractor states he is unable to provide a bond, the contractor shall place a cash reserve in an escrow account in an amount proportional to the volume of the contractor's business on the lands controlled by the department of natural resources.

6. Any person who contracts under this section with the state shall keep true and accurate records of his receipts and disbursements arising out of the performance of the contract and shall

permit the division of parks and recreation of the department of natural resources and the state director of revenue to audit them. The division of parks and recreation of the department of natural resources and the state director of revenue shall audit the receipts and disbursement of each contract once every two years and upon the expiration of the contract. For the purpose of subsection 5 of this section and this subsection, no contract shall be deemed to extend to operations or management in more than one state park.

253.082. FUND ESTABLISHED FOR EACH FACILITY HEAD AT STATE PARKS AND SCENIC SITES —PURPOSE OF FUND—LIMITATION, RULES. — Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the facility head of each of the state parks and historic sites in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of **one thousand** five hundred dollars for each such facility. The sum so specified shall be placed in the hands of the facility head as a revolving fund to be used in the payment of the incidental expenses of the facility for which he has been appointed and for the refund of fees paid by the public. All expenditures shall be made in accordance with rules and regulations established by the commissioner of administration.

253.092. ARROW ROCK STATE HISTORIC SITE ENDOWMENT FUND CREATED, EXPENDITURE OF MONEYS IN FUND —STATE TREASURER TO BE CUSTODIAN. — **1.** There is hereby created in the state treasury the "Arrow Rock State Historic Site Endowment Fund". The fund shall be administered by the Missouri department of natural resources. All moneys, funds, or other assets acquired for purposes of this section shall be deposited with the state treasurer to the credit of the fund. All income, interest, rights, or rent earned through the operation of the fund shall also be credited to the fund. All other property, real and personal, acquired through any grant, gift, donation, devise, or bequest specified for the Arrow Rock state historic site endowment fund for purposes stated in this section shall also be deposited in the fund. The original bequest of Bill and Cora Lee Miller made in the amount of twenty-one thousand nine hundred sixty-five dollars and ninety-two cents to the state park earnings fund is hereby transferred into the Arrow Rock state historic site endowment fund.

2. The Arrow Rock state historic site endowment fund shall be used for the enhancement of Arrow Rock state historic site's public interpretive programs, and may be used by the Missouri department of natural resources for the preparation of museum exhibits, acquisition of artifacts, publication of information, payment of fees for exhibits or lectures, or other similar interpretive needs at Arrow Rock state historic site and for no other purpose.

3. The state treasurer shall be the custodian of all moneys, bonds, securities, or interests and rights therein deposited in the state treasury to the credit of the Arrow Rock state historic site endowment fund and shall invest the moneys in the fund in a manner as provided by law.

4. Until January 1, 2100, the Missouri department of natural resources may annually expend an amount equal to one-half of the interest earned by the Arrow Rock state historic site endowment fund in the immediately preceding fiscal year for the purposes stated in this section. Beginning January 1, 2100, and thereafter the Missouri department of natural resources may annually expend an amount equal to the interest earned by the Arrow Rock state historic site endowment fund in the immediately preceding fiscal year, for the purposes stated in this section.

5. Funds from the Arrow Rock state historic site endowment fund shall be expended only upon appropriation by the general assembly. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, funds appropriated, but not expended by the end of the fiscal year, shall revert to the Arrow Rock state historic site endowment fund.

253.095. INTERPRETIVE OR EDUCATION SERVICES, AGREEMENTS ENTERED INTO WITH NOT-FOR-PROFIT ORGANIZATIONS FOR STATE PARKS, SPACE PROVIDED — NET PROCEEDS RETAINED BY ORGANIZATION. — In order to further the interpretive or educational functions of Missouri state parks, the director of the Missouri department of natural resources is authorized to enter into agreements with private, not-for-profit organizations that are organized solely to provide cooperative, interpretive or educational services to any one Missouri state park. The director may provide state park facility space to such an organization under a cooperative agreement. Net proceeds received from the sale of publications or other materials provided by an organization pursuant to such an agreement entered into under this section shall be retained by the organization for use in the interpretive or educational services provided to such park that the organization is designated to serve.

Approved June 13, 2002

SB 1024 [SCS SB 1024]

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

Requires physicians to maintain adequate and complete medical records for their patients.

AN ACT to amend chapter 334, RSMo, by adding thereto one new section relating to medical records.

SECTION

A. Enacting clause.

334.097. Maintenance of medical records, requirements, contents — corrections, additions and changes.

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

SECTION A. ENACTING CLAUSE. — Chapter 334, RSMo, is amended by adding thereto one new section, to be known as section 334.097, to read as follows:

334.097. MAINTENANCE OF MEDICAL RECORDS, REQUIREMENTS, CONTENTS — CORRECTIONS, ADDITIONS AND CHANGES. — **1. Physicians shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided the record keeping format is capable of being printed for review by the state board of registration for the healing arts. An adequate and complete patient record shall include documentation of the following information:**

- (1) Identification of the patient, including name, birthdate, address and telephone number;**
- (2) The date or dates the patient was seen;**
- (3) The current status of the patient, including the reason for the visit;**
- (4) Observation of pertinent physical findings;**
- (5) Assessment and clinical impression of diagnosis;**
- (6) Plan for care and treatment, or additional consultations or diagnostic testing, if necessary. If treatment includes medication, the physician shall include in the patient record the medication and dosage of any medication prescribed, dispensed or administered;**
- (7) Any informed consent for office procedures.**

2. Patient records remaining under the care, custody and control of the licensee shall be maintained by the licensee of the board, or the licensee's designee, for a minimum of seven years from the date of when the last professional service was provided.

3. Any correction, addition or change in any patient record made more than forty-eight hours after the final entry is entered in the record and signed by the physician shall be clearly marked and identified as such, and the date, time and name of the person making the correction, addition or change shall be included, as well as the reason for the correction, addition or change.

4. A consultative report shall be considered an adequate medical record for a radiologist, pathologist or a consulting physician.

5. The board shall not initiate disciplinary action pursuant to subsection 2 of section 334.100 against a licensee solely based on a violation of this section. If the board initiates disciplinary action against the licensee for any reason other than a violation of this section, the board may allege violation of this section as an additional cause for discipline pursuant to subdivision (6) of subsection 2 of section 334.100.

6. The board shall not obtain a patient medical record without written authorization from the patient to obtain the medical record or the issuance of a subpoena for the patient medical record.

Approved July 2, 2002

SB 1026 [CCS HS SCS SB 1026]

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

Allows physicians to refer patients who have been newly diagnosed with cancer to a specialist for a second opinion.

AN ACT to repeal sections 194.220, 194.230, 376.1219, RSMo, and to enact in lieu thereof seven new sections relating to health insurance coverage for cancer treatment and prevention and certain inherited diseases.

SECTION

- A. Enacting clause.
- 194.220. Persons who may execute an anatomical gift.
- 194.230. Persons who may become donees — purposes for which anatomical gifts may be made.
- 376.429. Coverage for certain clinical trials for prevention, early detection and treatment of cancer, restrictions — definitions.
- 376.1219. PKU formula and low protein modified food products covered by insurance, when — exceptions.
- 376.1253. Second opinion right of newly diagnosed cancer patients, attending physician to inform — insurance coverage for such second opinions required, when.
- 376.1275. Coverage for human leukocyte antigen testing for bone marrow transplantation required, when — exceptions.
 - 1. Effective date for statute allowing minors to donate organs.

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

SECTION A. ENACTING CLAUSE. — Sections 194.220, 194.230, 376.1219, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 194.220, 194.230, 376.429, 376.1219, 376.1253, 376.1275 and 1, to read as follows:

194.220. PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT. — 1. Any individual of sound mind who is at least eighteen years of age may give all or any part of his **or her** body for any purpose specified in section 194.230, the gift to take effect upon death. **Any individual who is a minor and at least sixteen years of age may effectuate a gift for any purpose specified in section 194.230, provided parental or guardian consent is deemed given. Parental or guardian consent shall be noted on the minor's donor card, application for the donor's instruction permit or driver's license, or other document of gift.** An express gift that is not revoked by the donor before death is irrevocable, and the donee shall be authorized to accept the gift without obtaining the consent of any other person.

2. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual knowledge of a gift by the decedent [under] **pursuant to** subsection 1 of this section or actual notice of contrary indications by the decedent or of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 194.230:

(1) An attorney in fact under a durable power of attorney that expressly refers to making a gift of all or part of the principal's body [under] **pursuant to** the uniform anatomical gift act;

(2) The spouse;

(3) An adult son or daughter;

(4) Either parent;

(5) An adult brother or sister;

(6) A guardian of the person of the decedent at the time of his **or her** death;

(7) Any other person authorized or under obligation to dispose of the body.

3. If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection 2 of this section may make the gift after or immediately before death.

4. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

5. The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection 4 of section 194.270.

194.230. PERSONS WHO MAY BECOME DONEES — PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE. — The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) Any accredited medical or dental school, college or university or the state anatomical board for education, research, advancement of medical or dental science, or therapy; or

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by [him] **such individual.**

376.429. COVERAGE FOR CERTAIN CLINICAL TRIALS FOR PREVENTION, EARLY DETECTION AND TREATMENT OF CANCER, RESTRICTIONS — DEFINITIONS. — **1. All health benefit plans, as defined in section 376.1350, that are delivered, issued for delivery, continued or renewed on or after August 28, 2002, and providing coverage to any resident of this state shall provide coverage for routine patient care costs as defined in subsection 6 of this section incurred as the result of phase III or IV of a clinical trial that is approved by an entity listed in subsection 4 of this section and is undertaken for the purposes of the prevention, early detection, or treatment of cancer.**

2. In the case of treatment under a clinical trial, the treating facility and personnel must have the expertise and training to provide the treatment and treat a sufficient volume of patients. There must be equal to or superior, noninvestigational treatment alternatives and the available clinical or preclinical data must provide a reasonable expectation that the treatment will be superior to the noninvestigational alternatives.

3. Coverage required by this section shall include coverage for routine patient care costs incurred for drugs and devices that have been approved for sale by the Food and Drug Administration (FDA), regardless of whether approved by the FDA for use in treating the patient's particular condition, including coverage for reasonable and medically necessary services needed to administer the drug or use the device under evaluation in the clinical trial.

4. Subsections 1 and 2 of this section requiring coverage for routine patient care costs shall apply to clinical trials that are approved or funded by one of the following entities:

- (1) One of the National Institutes of Health (NIH);
- (2) An NIH Cooperative Group or Center as defined in subsection 7 of this section;
- (3) The FDA in the form of an investigational new drug application;
- (4) The federal Departments of Veterans' Affairs or Defense;
- (5) An institutional review board in this state that has an appropriate assurance approved by the Department of Health and Human Services assuring compliance with and implementation of regulations for the protection of human subjects (45 CFR 46); or
- (6) A qualified research entity that meets the criteria for NIH Center support grant eligibility.

5. An entity seeking coverage for treatment, prevention, or early detection in a clinical trial approved by an institutional review board under subdivision (5) of subsection 4 of this section shall maintain and post electronically a list of the clinical trials meeting the requirements of subsections 2 and 3 of this section. This list shall include: the phase for which the clinical trial is approved; the entity approving the trial; whether the trial is for the treatment of cancer or other serious or life threatening disease, and if not cancer, the particular disease; and the number of participants in the trial. If the electronic posting is not practical, the entity seeking coverage shall periodically provide payers and providers in the state with a written list of trials providing the information required in this section.

6. As used in this section, the following terms shall mean:

(1) "Cooperative group", a formal network of facilities that collaborate on research projects and have an established NIH-approved Peer Review Program operating within the group, including the NCI Clinical Cooperative Group and the NCI Community Clinical Oncology Program;

(2) "Multiple project assurance contract", a contract between an institution and the federal Department of Health and Human Services (DHHS) that defines the relationship of the institution to the DHHS and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects;

(3) "Routine patient care costs", shall include coverage for reasonable and medically necessary services needed to administer the drug or device under evaluation in the clinical trial. Routine patient care costs include all items and services that are otherwise generally available to a qualified individual that are provided in the clinical trial except:

- (a) The investigational item or service itself;
- (b) Items and services provided solely to satisfy data collection and analysis needs and that are not used in the direct clinical management of the patient; and
- (c) Items and services customarily provided by the research sponsors free of charge for any enrollee in the trial.

7. For the purpose of this section, providers participating in clinical trials shall obtain a patient's informed consent for participation on the clinical trial in a manner that is

consistent with current legal and ethical standards. Such documents shall be made available to the health insurer upon request.

8. The provisions of this section shall not apply to a policy, plan or contract paid under Title XVIII or Title XIX of the Social Security Act.

376.1219. PKU FORMULA AND LOW PROTEIN MODIFIED FOOD PRODUCTS COVERED BY INSURANCE, WHEN —EXCEPTIONS. — 1. Each policy issued by an entity offering individual and group health insurance which provides coverage on an expense-incurred basis, individual and group health service or indemnity type contracts issued by a nonprofit corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group health arrangements to the extent not preempted by federal law, and all health care plans provided by managed health care delivery entities of any type or description, that are delivered, issued for delivery, continued or renewed in this state on or after September 1, 1997, shall provide coverage for formula **and low protein modified food products** recommended by a physician for the treatment of a patient with phenylketonuria or any inherited disease of amino and organic acids **who is covered under the policy, contract, or plan and who is less than six years of age.**

2. [The health care service required by this section shall not be subject to any greater deductible or co-payment than other similar health care services provided by the policy, contract or plan.] **For purposes of this section, "low protein modified food products" means foods that are specifically formulated to have less than one gram of protein per serving and are intended to be used under the direction of a physician for the dietary treatment of any inherited metabolic disease. Low protein modified food products do not include foods that are naturally low in protein.**

3. **The coverage required by this section may be subject to the same deductible for similar health care services provided by the policy, contract, or plan as well as a reasonable coinsurance or copayment on the part of the insured, which shall not be greater than fifty percent of the cost of the formula and food products, and may be subject to an annual benefit maximum of not less than five thousand dollars per covered child. Nothing in this section shall prohibit a carrier from using individual case management or from contracting with vendors of the formula and food products.**

[3.] 4. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, or any other supplemental policy as determined by the director of the department of insurance.

376.1253. SECOND OPINION RIGHT OF NEWLY DIAGNOSED CANCER PATIENTS, ATTENDING PHYSICIAN TO INFORM —INSURANCE COVERAGE FOR SUCH SECOND OPINIONS REQUIRED, WHEN. — 1. **Each physician attending any patient with a newly diagnosed cancer shall inform the patient that the patient has the right to a referral for a second opinion by an appropriate board-certified specialist prior to any treatment. If no specialist in that specific cancer diagnosis area is in the provider network, a referral shall be made to a nonnetwork specialist in accordance with this section.**

2. **Each health carrier or health benefit plan, as defined in section 376.1350, that offers or issues health benefit plans which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2003, shall provide coverage for a second opinion rendered by a specialist in that specific cancer diagnosis area when a patient with a newly diagnosed cancer is referred to such specialist by his or her attending physician. Such coverage shall be subject to the same deductible and coinsurance conditions applied to other specialist referrals and all other terms and conditions applicable to other benefits, including the prior authorization and/or referral authorization requirements as specified in the applicable health insurance policy.**

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

376.1275. COVERAGE FOR HUMAN LEUKOCYTE ANTIGEN TESTING FOR BONE MARROW TRANSPLANTATION REQUIRED, WHEN — EXCEPTIONS. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2003, shall include coverage for their members for the cost for human leukocyte antigen testing, also referred to as histocompatibility locus antigen testing, for A, B, and DR antigens for utilization in bone marrow transplantation. The testing must be performed in a facility which is accredited by the American Association of Blood Banks or its successors, and is licensed under the Clinical Laboratory Improvement Act, 42 U.S.C. Section 263a, as amended, and is accredited by the American Association of Blood Banks or its successors, the College of American Pathologists, the American Society for Histocompatibility and Immunogenetics (ASHI) or any other national accrediting body with requirements that are substantially equivalent to or more stringent than those of the College of American Pathologists. At the time of testing, the person being tested must complete and sign an informed consent form which also authorizes the results of the test to be used for participation in the National Marrow Donor Program. The health benefit plan may limit each enrollee to one such testing per lifetime to be reimbursed at a cost of no greater than seventy-five dollars by the health carrier or health benefit plan.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The health care service required by this section shall not be subject to any greater deductible or copayment than other similar health care services provided by the health benefit plan.

4. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

SECTION 1. EFFECTIVE DATE FOR STATUTE ALLOWING MINORS TO DONATE ORGANS. — The provisions of subsection 1 of section 294.220, RSMo, relating to allowing a minor who is at least sixteen years of age to effectuate a gift for any purpose specified in section 194.230, RSMo, through the driver's license or instruction permit application process, shall be effective July 1, 2003.

Approved July 2, 2002

SB 1028 [SB 1028]

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 establishment of a law enforcement district.

AN ACT to repeal section 67.1866, RSMo, and to enact in lieu thereof one new section relating to law enforcement districts.

SECTION

- A. Enacting clause.
67.1866. Vote required to create district — petition, contents — hearing on petition, when, notice required.

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

SECTION A. ENACTING CLAUSE. — Section 67.1866, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.1866, to read as follows:

67.1866. VOTE REQUIRED TO CREATE DISTRICT — PETITION, CONTENTS — HEARING ON PETITION, WHEN, NOTICE REQUIRED. — 1. Whenever the creation of a district is desired, ten percent of the registered voters within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of the county in which the proposed district is located.

2. The proposed district area shall be contiguous and may contain any portion of one or more municipalities.

3. The petition shall set forth:

(1) The name and address of each owner of real property located within the proposed district or who is a registered voter resident within the proposed district;

(2) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(3) A general description of the purpose or purposes for which the district is being formed; and

(4) The name of the proposed district.

4. [In the event any owner of real property within the proposed district who is named in the petition or any legal voter resident within the district shall not join in the petition or file an entry of appearance and waiver of service of process in the case, a copy of the petition shall be served upon said owner or legal voter in the manner provided by supreme court rule for the service of petitions generally. Any objections to the petition shall be raised by answer within the time provided by supreme court rule for the filing of an answer to a petition.] **The circuit clerk of the county in which the petition is filed pursuant to this section shall present the petition to the judge, who shall thereupon set the petition for hearing not less than thirty days nor more than forty days after the filing. The judge shall cause notice of the time and place of the hearing to be given, by publication on three separate days in one or more newspapers having a general circulation within the county, with the third and final publication to occur not less than twenty days prior to the date set for the hearing. The notice shall recite the information required pursuant to subsection 3 of this section. The costs of printing and publication of the notice shall be paid as required pursuant to section 67.1870.**

Approved July 3, 2002

SB 1039 [HS HCS SB 1039]

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 composition and selection of the Kansas City housing commissioners.

AN ACT to repeal sections 99.050 and 99.134, RSMo, and to enact in lieu thereof two new sections relating to municipal housing authority commissioners.

SECTION

- A. Enacting clause.
99.050. Commissioners — appointment — qualifications — term — compensation.
99.134. Commissioners of housing authority — membership — terms (Kansas City).

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

SECTION A. ENACTING CLAUSE. — Sections 99.050 and 99.134, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 99.050 and 99.134, to read as follows:

99.050. COMMISSIONERS — APPOINTMENT — QUALIFICATIONS — TERM — COMPENSATION. — When the governing body of a city adopts a resolution or other declaration as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons who shall be taxpayers who have resided in said city for [five years] **one year** prior to such appointment as commissioners of the authority created for said city. When the governing body of a county adopts a resolution or other declaration as aforesaid, said body shall appoint five persons as commissioners of the authority created for said county. Three of the commissioners who are first appointed shall be designated to serve for terms of one, two, and three years, respectively, from the date of their appointment, and two shall be designated to serve for terms of four years from the date of their appointment. Thereafter commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified, unless sooner removed according to sections 99.010 to 99.230. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services for the authority, in any capacity, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. The powers of each authority shall be vested in the commissioners thereof in office from time to time. One more than one-half of all commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of a quorum, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners shall be the first chairman and he shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its commissioners a vice chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

99.134. COMMISSIONERS OF HOUSING AUTHORITY — MEMBERSHIP — TERMS (KANSAS CITY). — [Beginning April 1, 1991, the provisions of this section shall apply to housing authorities of any city with a population of more than three hundred fifty thousand inhabitants

which is located in more than one county. The authority shall consist of seven commissioners, appointed by the mayor of the city, with the advice and consent of the city council. One commissioner shall be appointed from each city council district and the seventh commissioner shall be a tenant of any housing project owned or operated by the housing authority. The tenant commissioner shall serve for three years, but only if he remains a tenant of any housing project owned or operated by the authority. Notwithstanding the provisions of this chapter to the contrary, a new authority shall be established under this section. The commissioners of the authority in office on April 1, 1991, shall be deemed members of the new authority and shall serve the remaining portion of their terms. The new members of the authority which bring the total number of members to seven shall serve for four years. Upon the completion of the term of any commissioner, except the tenant commissioner, his replacement shall be appointed for a period of four years. The mayor shall make appointments within ninety days of the vacancy occurring. If no appointment has been made within ninety days by the mayor, the vacancy shall be filled by a majority of the city council present and voting at a regular meeting.] **This section shall apply to housing authorities of any home rule city with more than four hundred thousand inhabitants and located in more than one county. The provisions of this section shall apply to such housing authorities and the following provisions shall govern the composition of the housing authority and the selection of the members thereof:**

(1) There shall be seven members of the housing authority commission, six shall be appointed and one shall be elected by the tenants of the housing authority;

(2) The appointive members of the housing authority commission shall be nominated by a nominating committee and appointed by the mayor. The nominating committee shall consist of five members, consisting of two disinterested persons selected by the jurisdiction wide resident organization of which one must be a public housing resident and the other a person receiving Section 8 housing assistance, the remaining three members of the nominating committee shall be selected by the housing authority commissioners. At least one appointive member must be a resident in good standing receiving Section 8 housing assistance and participating in a self-sufficiency program or successfully completed a self-sufficiency program, and at least one appointive member must be an owner of rental property located within the limits of the city who is a resident of such city, but shall not own any property containing public housing;

(3) The election of the tenant commissioner shall be conducted by the jurisdiction wide resident organization and overseen by an independent third party. The election shall be by written ballot and each tenant of the housing authority who has attained the age of eighteen years shall be entitled to one vote. In addition to the qualifications required for the office by the provisions of section 99.010 to 99.230, the elected member of the commission shall be a tenant in good standing;

(4) Commissioners of the housing authority required by this section to be tenants of the housing authority or tenants receiving Section 8 housing assistance shall not be employed in any capacity by the housing authority and shall not be construed, because of such tenancy or receipt of housing assistance, to have direct or indirect interest in any housing authority project or in any property included or planned to be included in any project, or in proposed contract for materials or services within the meaning of section 99.060;

(5) Each elective commissioner shall serve a term of four years. Of the six appointive members of the commissioners first appointed pursuant to this section, two shall serve a term of one year, two commissioners shall serve a term of two years, and two commissioners shall serve a term of three years. Thereafter all commissioners shall serve a term of office of four years except that all vacancies shall be filled for the unexpired term;

(6) The commissioners shall select from among its members a chairperson and a vice chairperson;

(7) Each commissioner shall receive a stipend of two hundred dollars per month for his or her services to the housing authority in any capacity in addition to reimbursement for expenses incurred for special travel or conference expenses incurred in the discharge of the commissioner's duties. The board of commissioners shall have the power to adjust the stipend amount annually to reflect changes in the Consumer Price Index or similar prudent and object pre-escalator method;

(8) A quorum shall consist of at least four commissioners; and

(9) All commissioners shall be residents of the jurisdiction of the housing authority.

Approved June 27, 2002

SB 1041 [SB 1041]

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

Authorizes conveyance of state property in Camden, Cole, and Phelps counties.

AN ACT to authorize the conveyance of property owned by the state.

SECTION

1. Conveyance of property by department of natural resources to Lawrence and Helen Taylor.
2. Conveyance of Cole County property to the department of natural resources.
3. Conveyance of Cole County property to the general services administration or the Missouri development finance board.
4. Conveyance of property by the state to the Gingerbread House, Inc.

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

SECTION 1. CONVEYANCE OF PROPERTY BY DEPARTMENT OF NATURAL RESOURCES TO LAWRENCE AND HELEN TAYLOR. — 1. The department of natural resources is hereby authorized to convey by warranty deed or other appropriate instrument, as the board determines appropriate, its right, title and interest in the real estate to Lawrence Leroy and Helen Delores Taylor. The property to be conveyed is more particularly described as follows:

A tract of land in the County of Camden and the State of Missouri, lying in part of the northwest quarter of Section 7, Township 37 North, Range 16 West of the Fifth Principal Meridian, being part of a tract of land conveyed to the Missouri Department of Natural Resources by instrument filed for record in Deed Book 463 at page 373 of the Camden County land records, more particularly described as follows:

Commencing at a standard DNR aluminum monument set to mark the west quarter corner of said Section 7 as located and described in MoDNR document #600-68292 and document #750-26934; thence along the east-west centerline of said Section 7, south 87 degrees 49 minutes 40 seconds east, a distance of 1169.9 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described tract; thence continuing on said east-west centerline, south 87 degrees 49 minutes 40 seconds east, a distance of 1305.2 feet to the intersection of said east-west centerline and the westerly line of a tract of land conveyed to Ronald E. Adamson by instrument recorded in Deed Book 480 at page 911 of said land records, said intersection marked by a set 5/8 inch rebar from which a found 3/8 inch smooth round rod bears north 11 degrees 08 minutes 30 seconds west, a distance

of 50.3 feet and a found ½ inch rebar bears north 11 degrees 08 minutes 30 seconds west, a distance of 88.75 feet; thence along said Adamson line north 11 degrees 08 minutes 30 seconds west, a distance of 282.25 feet to a found 3/8 inch smooth round rod marking the northwest corner of said Adamson tract; thence along the northerly line of said Adamson tract, north 72 degrees 14 minutes 15 seconds east, a distance of 227.5 feet to a found 3/8 inch smooth round rod in gravel road at the westerly line of a tract of land conveyed to L & L Construction Co. by instrument recorded in Deed Book 214 at page 145 of said land records, from which rod a found 3/8 inch smooth round rod bears north 02 degrees 11 minutes 20 seconds east, a distance of 83.60 feet; thence along said L & L line, north 23 degrees 36 minutes 45 seconds west, a distance of 30.15 feet to the southeast or most easterly corner of a tract of land conveyed to Donald and Debora Lucas by instrument recorded in Deed Book 295 at page 149 of said land records, marked by a set 5/8 inch rebar in gravel road; thence along the southerly line of said Lucas tract, south 72 degrees 14 minutes 15 seconds west, a distance of 246.17 feet to a found 3/8 inch smooth round rod at the southwest or most southern corner of said Lucas tract; thence along the westerly line of said Lucas tract, north 22 degrees 39 minutes 45 seconds west, a distance of 209.9 feet to a found 3/8 inch smooth round rod at the northwest or most western corner of said Lucas tract and the southerly line of a tract of land conveyed to Kenneth Gannon by instrument recorded in Deed Book 449 at page 848 of said land records; thence along the southerly line of said Gannon tract, south 72 degrees 14 minutes 15 seconds west, a distance of 90.52 feet to a found ½ inch rebar with red plastic cap marked "D. SNELLING LS2289" at the southwest or most southern corner of said Gannon tract; thence along the westerly line of said Gannon tract, north 20 degrees 44 minutes 30 seconds west, a distance of 172.00 feet to a set 5/8 inch rebar; thence departing said Gannon line, south 59 degrees 50 minutes 30 seconds west, a distance of 1147.15 feet to the true point of beginning.

2. In consideration for the conveyance in subsection 1 of section 1 of this act, the Missouri department of natural resources is hereby authorized to receive by warranty deed or other appropriate instrument, as the board determines appropriate, its right, title and interest in the real estate from Lawrence Leroy and Helen Delores Taylor. The property to be conveyed is more particularly described as follows:

A tract of land in the County of Camden and the State of Missouri, lying in part of the southwest quarter of Section 7, Township 37 North, Range 16 West of the Fifth Principal Meridian, being part of a tract of land conveyed to Lawrence Leroy and Helen Delores Taylor by instrument filed for record in Deed Book 419 at page 464 of the Camden County land records, more particularly described as follows:

Commencing at a standard DNR aluminum monument set to mark the west quarter corner of said Section 7 as located and described in MoDNR document #600-68292 and document #750-26934, the TRUE POINT OF BEGINNING of the herein described tract; thence along the east-west centerline of said Section 7, south 87 degrees 49 minutes 40 seconds east, a distance of 1169.9 feet to a set 5/8 inch rebar; thence departing said east-west centerline, south 59 degrees 50 minutes 30 seconds west, a distance of 1382.4 feet to a 5/8 inch rebar set on the Range line between Ranges 16 and 17 West, from which a found 5/8 inch rebar with melted red plastic cap bears south 02 degrees 00 minutes 28 seconds west, a distance of 582.50 feet; thence along said Range line, north 02 degrees 00 minutes 28 seconds east, a distance of 626.70 feet to the east quarter corner of Section 12, Township 37 North, Range 17 West, marked by a standard DNR aluminum monument described in MoDNR document #600-59541; thence continuing along said Range line, north 02 degrees 09 minutes 04 seconds east, a distance of 112.65 feet to the true point of beginning, containing 9.9 acres, more or less.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. CONVEYANCE OF COLE COUNTY PROPERTY TO THE DEPARTMENT OF NATURAL RESOURCES. — 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 department of natural resources. The property to be conveyed is more particularly described as follows:

Part of the East Half of the Southwest Quarter, and part of the West Half of the Southeast of Quarter of Section 13, Township 45 North, Range 13 West, Cole County, Missouri, more particularly described as follows:

BEGINNING at the northwest corner of the East Half of the Southwest Quarter of the aforesaid Section 13, Township 45 North, Range 13 West; thence S88 18'32"E, along the Quarter Section Line, 1328.87 feet to the Center of said Section 13; thence continuing S88 18'32"E, along the Quarter Section Line, 277.59 feet to a point intersecting the southerly line of the 100 foot wide Missouri Pacific Railroad right-of-way; thence S49 23'55"E, along the southerly line of said Railroad Right-of-way, 191.44 feet to the center of an existing field road; thence along the center of said field road the following courses: Southwesterly, on a curve to the left, having a radius of 270.00 feet, an arc distance of 86.87 feet, (the chord of said curve being S26 47'07"W, 86.50 feet); thence S17 34'03"W, 80.68 feet; thence Southerly, on a curve to the left, having a radius of 125.00 feet, an arc distance of 142.57 feet, (the chord of said curve being S15 06'27"E, 134.97 feet); thence S47 46'57"E, 326.12 feet; thence S49 41'43"E, 399.15 feet; thence Southerly, on a curve to the right, having a radius of 130.00 feet, an arc distance of 143.08 feet, (the chord of said curve being S18 09'54"E, 135.97 feet); thence S13 21'56"W, 534.20 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way; thence leaving the center of the aforesaid field road, along the northerly line of said Missouri State Highway 179 Right-of-way, the following courses: Westerly, on a curve to the left, having a radius of 995.40 feet, an arc distance of 182.61 feet, (the chord of said curve being, N86 14'50"W, 182.36 feet); thence S88 45'26"W, 95.47 feet; thence Westerly, on a curve to the left, having a radius of 1000.40 feet, an arc distance of 104.71 feet, (the chord of said curve being S80 01'19"W, 104.66 feet); thence S71 17'13"W, 95.47 feet; thence S66 08'20"W, 291.10 feet; thence S66 08'20"W, 291.10 feet; thence Westerly, on a curve to the right, having a radius of 915.40 feet, an arc distance of 997.80 feet (the chord of said curve being N82 38'05"W, 949.13 feet); thence N51 24'30"W, 336.30 feet; thence N38 35'30"E, 45.00 feet; thence N62 43'06"W, 229.46 feet; thence N51 24'30"W, 12.26 feet to a point intersecting the west line of the East Half of the Southwest Quarter of the aforesaid Section 13, Township 45 North, Range 13 West; thence leaving said Missouri State Highway 179 Right-of-way line, N1 01 0'35"E, along the Quarter Quarter Section Line, 1294.07 feet to the POINT OF BEGINNING.

Containing 77.28 Acres.

2. The conveyance is subject to an easement in favor of the state of Missouri for ingress and egress to the property retained by the state of Missouri.
3. The consideration for the conveyance shall be one dollar.
4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. CONVEYANCE OF COLE COUNTY PROPERTY 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 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 4. CONVEYANCE OF PROPERTY BY THE STATE TO THE GINGERBREAD HOUSE, INC. — 1. In the event that a tract of real property described in this subsection is conveyed to the state, the governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in such property to the Gingerbread House, Inc. The property to be conveyed is more particularly described as follows:

A fractional part of Lot 119 of the Railroad Addition in Rolla, Missouri, and more particularly described as follows: Commencing at the NW corner of said Lot 119, thence S. 0°43' W., 30.0 feet to the S. line of Gale Drive, thence N. 88°53' E., 311.92 feet along said S. street line, thence S. 0°52' W., 325.0 feet, thence N. 88°53' E., 119.10 feet to the true point of beginning of the tract hereinafter described; thence N. 88°53' E., 188.90 feet to the W. line of Fairgrounds Road, thence S. 0°52' W., 242.0 feet along said W. line of Fairgrounds Road, thence S. 89°07' W., 188.87 feet, thence N. 0°52' E., 241.19 feet to the true point of beginning. Above tract contains 1.10 acres ±. This survey is recorded in Phelps County Surveyor's Records in Book "I" at Page S-6038, dated August 30th, A.D. 1982, made by R. L. Elgin & Associates, Engineers & Surveyors, Rolla, Missouri.

(Note: This excepted parcel of 1.10 acres is the same parcel now occupied by Gingerbread House, Inc., and is also the same parcel of land heretofore mortgaged by said Gingerbread House, Inc., as 1st party or grantor or trustor to Milton J. Schnebelen as 2nd party or Trustee for COMMERCE BANK OF BONNE TERRE as 3rd party or beneficiary or cestui que trust, via that certain Deed of Trust dated Sept. 7th, 1982, filed Sept. 10, 1982, in Trust Deed Book 239 at Page 63 of Phelps County trust deed records.)

2. The attorney general shall approve the form of the instrument of conveyance.

Approved June 21, 2002

SB 1048 [SB 1048]

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

Makes a technical correction to the statute creating the Spinal Cord Injury Fund.

AN ACT to repeal section 304.027, RSMo, and to enact in lieu thereof one new section relating to the spinal cord injury fund.

SECTION

A. Enacting clause.

304.027. Spinal cord injury fund created, uses — surcharge imposed, when.

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

SECTION A. ENACTING CLAUSE. — Section 304.027, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.027, to read as follows:

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] **this section**, 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. The judgments 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.

Approved July 10, 2002

SB 1071 [SCS SB 1071]

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

Weight and measures.

AN ACT to repeal sections 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227 and 413.229, RSMo, relating to weights and measures, and to enact in lieu thereof fifteen new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 413.005. Definitions.
- 413.015. Division of weights and measures — established — director and staff, expenses, compensation — powers and duties of division.
- 413.055. Specifications, tolerance and other technical requirements adopted by division.
- 413.065. Director, duties — rules, procedure.
- 413.075. Powers of director.
- 413.085. City- and county-appointed weights and measures officials, powers and duties, exception — current power of director.
- 413.115. Deceptive business practices, prohibited.
- 413.125. Bulk sales, delivery ticket required, when, content.
- 413.135. Prohibited actions.
- 413.145. Packages for sale, certain information on package required.
- 413.155. Packages containing random weights to state price per single unit of weight.
- 413.165. Advertising packaged commodity stating retail price, quantity also required on package — dual declaration, requirement.
- 413.225. Fees — rates — due at time of registration, inspection or calibration, failure to pay fee, effect, penalty.
- 413.227. Violations, procedure, notices, contents — hearing, rights of violator — penalty — appeal — deposit of penalty.
- 413.229. Criminal penalties for violations.

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

SECTION A. ENACTING CLAUSE. — Sections 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227 and 413.229, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 413.005, 413.015, 413.055, 413.065, 413.075, 413.085, 413.115, 413.125, 413.135, 413.145, 413.155, 413.165, 413.225, 413.227 and 413.229, to read as follows:

413.005. DEFINITIONS. — As used in sections 413.005 to 413.229, unless the context clearly indicates otherwise, the following words and terms mean:

(1) "Accurate", any piece of equipment that conforms to the standard within applicable tolerance and other performance requirements;

[(1)] (2) "Commercial [device] weighing and measuring equipment", [any weighing or measuring device] devices commercially used in [commerce] or employed to establish the size, quantity, extent, area or measurement of quantities, things produced or articles for distribution or consumption, purchased, offered or submitted for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and includes any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects [or may affect] the accuracy of the weighing or measuring device;

[(2)] (3) "Correct", equipment that[, in addition to being] is accurate[, a device] and it meets all applicable specifications[, performance and installation] and requirements;

[(3)] (4) "Director", the director of the department of agriculture, or his or her designated representative;

[(4)] (5) "Division", the division of weights and measures of the department of agriculture;

[(5)] (6) "Net mass" or "net weight", the weight of a commodity excluding any materials, substances, or items not considered to be part of the commodity, which include but are not limited to containers, conveyances, bags, wrappers, packaging material, labels, individual piece coverings, decorative accompaniments and coupons and packaging materials;

[(6)] (7) "Package", any commodity **of standard package or random package** enclosed in a container or wrapped in any manner in advance of wholesale or retail sales, or whose weight or measure has been determined in advance of wholesale or retail sale, and an individual item or lot of any commodity on which there is marked a selling price based on an established price per unit of weight or of measure, **shall be considered a package (or packages)**;

[(7)] (8) "Person", **includes** individuals, partnerships, corporations, companies, societies, and associations;

[(8)] (9) "Point-of-sale system", [a point-of-sale system includes cash registers or devices and systems capable of recovering stored information related to the price of individual retail items] **an assembly of elements including a weighing or measuring element, indicating element, and a recording element that may be equipped with a "scanner" used to complete a direct sales transaction**;

[(9)] (10) "Primary standards", the physical standards of the state [which] **that** serve as the legal reference from which all other standards [of] **for** weights and measures are derived;

[(10)] (11) "Random [package] **weight packages**", a package that is one of a lot, shipment or delivery of packages of the same consumer commodity with no fixed pattern of [weight or measure] **weights**;

[(11)] (12) "Sale from bulk", the sale of commodities when the quantity is determined at the time of sale;

[(12)] (13) "Secondary standards", the physical standards used in the enforcement of weights and measures laws and regulations which are traceable to the primary standards through comparisons, using acceptable laboratory procedures;

[(13)] (14) "Standard package", a package that is one of a lot, shipment or delivery of packages of the same commodity with identical net contents declarations;

[(14)] (15) "Weight", as used in connection with any commodity[,] **or service** means net weight. Where the label declares that the product is sold by drained weight, the term means net drained weight;

[(15)] (16) "Weights and measures", instruments and devices of every kind, used for weighing[,] **and** measuring [and counting], and any appliance, accessory or object used with or associated with the use of all such instruments and devices.

413.015. DIVISION OF WEIGHTS AND MEASURES — ESTABLISHED — DIRECTOR AND STAFF, EXPENSES, COMPENSATION — POWERS AND DUTIES OF DIVISION. — 1. There is established a "Division of Weights and Measures" within the department of agriculture. There shall be a director of weights and measures and such other necessary technical, supervisory and clerical personnel as may be required.

2. The compensation of all employees, the cost of all necessary equipment and supplies, travel and contingent expenses for the division shall be paid from appropriations for these purposes, made by the general assembly.

3. The division is charged with, but not limited to, performing the following functions on behalf of the citizens of the state:

(1) Assuring that **weights and measures in** commercial [devices] **service** within the state are suitable for their intended use, properly installed, accurate and are so maintained by their owner or user;

(2) Preventing unfair or deceptive dealing by weight or measure in any commodity or service advertised, **packaged**, sold or purchased within this state;

(3) Making available to all users of physical standards or weighing and measuring equipment the precision calibration and **related** metrological certification capabilities of the weights and measures facilities of the division;

(4) Promoting uniformity, to the extent practicable and desirable, between [the] **weights and measures** requirements of this state and those of other states and federal agencies; and

(5) Encouraging and promoting **desirable** economic and agricultural growth while protecting the public through the adoption by rule of weights and measures requirements as necessary to assure equity among buyers and sellers.

413.055. SPECIFICATIONS, TOLERANCE AND OTHER TECHNICAL REQUIREMENTS ADOPTED BY DIVISION. — The specification, tolerances, and other technical requirements for commercial weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the most recent edition of National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices", **and supplement thereto or revision thereof**, shall apply to commercial weighing and measuring devices in this state, except insofar as modified or rejected by state regulations.

413.065. DIRECTOR, DUTIES — RULES, PROCEDURE. — [1.] The director shall:

(1) Maintain the traceability of the state standards to the **national standards in the possession of the** National Institute of Standards and Technology;

(2) Enforce the provisions of sections 413.005 to 413.229;

(3) Promulgate reasonable regulations for the enforcement of sections 413.005 to 413.229 in accordance with this section and chapter 536, RSMo;

(4) Prescribe, by regulation, requirements for packaging and labeling and method of sale of commodities, adopt the Uniform Regulation for National Type Evaluation (NTEP) as published by the National Institute of Standards and Technology (NIST) in Handbook 130, **and supplements thereto or revisions thereof** [pertaining to weighing and measuring devices], and may establish standards of weight, measure or count, requirements for unit pricing, open dating information, and reasonable standards of fill for any packaged commodity;

(5) Test [the secondary] **annually the standards for weights and measures** used by any city or county within this state, approve the same when found to be correct, reject those found to be incorrect and not capable of adjustment, adjust any incorrect standard which is capable of adjustment and approve same for use;

(6) Inspect and test weights and measures [kept,] **commercially used in determining the weight, measure, or count of commodities, things sold, offered, or exposed for sale in computing the basic charge or payment for services rendered on the basis of weight, measure, or count;**

(7) Inspect and test all commercial devices at intervals deemed appropriate by the director and specified by regulations promulgated under the authority of this chapter, except that any subsequent test of the same device in the same calendar year shall be to retest a rejected device, conducted in conjunction with an investigation, or at the request of the owner/operator of the device;

(8) Test all [weighing and measuring devices] **weights and measures** used in checking the receipts or disbursements [for] **of supplies in** every institution which is maintained with funds appropriated by the general assembly;

(9) Approve for use, and mark **such commercial** weights and measures **as are** found to be correct. Reject and mark as rejected **and order to be corrected, replaced, or removed such commercial** weights and measures **as are** found to be incorrect. The director may seize **such commercial** weights and measures that have been rejected and not corrected within the time specified and have continued in commercial use, or are disposed of in a manner not specifically authorized and may condemn and may seize **such** commercial weights and measures that are not capable of being corrected;

(10) Weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with sections 413.005 to 413.229 or regulations promulgated pursuant to sections 413.005 to 413.229. In carrying out the

provisions of this subdivision, the director shall employ recognized sampling procedures, such as are [designated] **adopted by the National Conference on Weights and Measures and are published** in the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

(11) Prescribe, by regulation, the appropriate term or unit of weight [and] or measure to be used, whenever [it is determined] **the director determines** in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or any combination thereof, does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion[.];

[2.] **(12)** No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo[.];

[3.] **(13)** The director may establish requirements for open dating information and may promulgate regulations establishing a method of sale of commodities.

413.075. POWERS OF DIRECTOR. — [1.] When necessary for the enforcement of sections 413.005 to 413.229 or regulations promulgated under sections 413.005 to 413.229, the director may:

(1) Enter any commercial premises during normal business hours; except that, in the event such premises are not open to the public, she/he shall first present his or her credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained;

(2) Seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of the provisions of sections 413.005 to 413.229 or regulations promulgated thereunder;

(3) Stop any commercial vehicle, present his or her credentials, inspect the contents, and require the person in charge of that vehicle to produce any documents in his or her possession concerning the contents, and may require such person to proceed with the vehicle to some specified place for a more thorough inspection;

(4) Verify advertised prices and point-of-sale systems, as deemed necessary to determine the accuracy of prices and computations and the correct [operation] **use** of the equipment, and if such systems utilize scanning or coding means in lieu of manual entry, the accuracy of [the] **price printed or recalled from a** database. In carrying out the provisions of this section, the director shall employ recognized procedures, such as are designated in the most recent edition of National Institute of Standards and Technology Handbook 130, "**Examination Procedures for Price Verification**"; issue necessary rules and regulations regarding the accuracy of advertised prices and automated systems for retail price charging (**referred to as "point-of-sale systems"**) for the enforcement of this section which shall have the force and effect of law; and conduct investigations to ensure compliance;

(5) Grant any exemptions from the provisions of sections 413.005 to 413.229 or any regulations promulgated thereunder, when appropriate to the maintenance of good commercial practices[.];

[2. The director may] **(6)** Issue stop sale, stop use, hold or removal orders with respect to any weights and measures [unlawfully] **commercially** used, to any packaged or bulk commodities kept, offered or exposed for sale contrary to the provisions of this act, and cease and desist orders with respect to any practices made unlawful by this chapter, which order shall remain in effect until sections 413.005 to 413.229 have been complied with. The owner or operator of the business or operation to which the order was issued shall have the right to take such steps necessary to bring the device, commodity or practice into compliance, and shall also have the right to appeal from such order to the circuit court of the county in which the order was issued. Failure to comply with the provisions of the order shall be deemed an unlawful act.

413.085. CITY-AND COUNTY-APPOINTED WEIGHTS AND MEASURES OFFICIALS, POWERS AND DUTIES, EXCEPTION — CURRENT POWER OF DIRECTOR. — Weights and measures officials of any county or city shall perform the same duties as are imposed on the director by subdivisions (7) to (11) of subsection 1 of section 413.065, and except for subdivision (5) of subsection 1 of section 413.075 shall have the same powers granted to the director by section 413.075. These powers and duties shall extend to their respective jurisdictions; except that, the jurisdiction of a county **official** shall not extend into a city nor a city into a county which has a weights and measures program of its own. The foregoing provisions notwithstanding, the director shall have concurrent authority to enforce the provisions of sections 413.005 to 413.229 in any city or county within this state.

413.115. DECEPTIVE BUSINESS PRACTICES, PROHIBITED. — A person commits the crime of deceptive business practice if in the course of engaging in a business, occupation or profession, he or she recklessly:

- (1) Uses commercially an incorrect, rejected or condemned weight or measure, or any other device for falsely determining or recording any quality or quantity; or
- (2) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or
- (3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he or she furnishes the weight or measure by means of which the quantity is determined; or
- (4) Sells, offers or exposes for sale misbranded commodities; or
- (5) Misrepresents the quantity or price of any commodity or service sold, offered, exposed or advertised for sale, rent or lease by weight, measure or count.

413.125. BULK SALES, DELIVERY TICKET REQUIRED, WHEN, CONTENT. — All bulk sales in which the buyer and seller are not both present to witness the measurement shall be accompanied by a delivery ticket containing the following information:

- (1) The name and address of the buyer and the seller;
- (2) The date delivered;
- (3) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;
- (4) The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale;
- (5) The count of [individual] **individually wrapped** packages, if more than one, **including commodities bought from the bulk but delivered in packages.**

413.135. PROHIBITED ACTIONS. — No person shall:

- (1) Sell, offer for sale or install for use as a commercial device any incorrect weight or measure;
- (2) Remove from any weight or measure any tag, seal or mark placed thereon by the director, without written authorization from the director;
- (3) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation;
- (4) Obstruct, hinder, impair or prevent the performance of a governmental function by a weights and measures official by the use or threat of violence, force or other physical interference or obstacle;
- (5) Use, or have in possession for current use as a commercial device, any weight or measure that has not been inspected and sealed by the director within the time specified by this act or regulation promulgated hereunder, except that this subdivision does not apply if the director has been notified that a device is available for inspection or reinspection and the director

grants or has granted authorization for its temporary commercial use pending an official inspection;

(6) Use in retail trade a weight or measure that is not positioned so that its indications may be accurately read and the weighing or measuring operation observed from some position which may be reasonably assumed by [a] **the customer and operator**. Devices used for medical prescription and those used exclusively to prepare packages in advance of retail sale are exempt from this requirement;

(7) Keep for the purpose of sale, advertise, offer or expose for sale or sell any commodity, thing or service in a condition or manner contrary to law or regulation.

413.145. PACKAGES FOR SALE, CERTAIN INFORMATION ON PACKAGE REQUIRED. — Except as otherwise provided in sections 413.005 to 413.229 or by regulations promulgated thereunder, any package **whether a random or a standard package**, kept for the purpose of sale, or offer or exposure for sale, shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

(1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;

(2) The quantity of contents in terms of weight, measure, or count; and

(3) The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale, or sold in any place other than on the premises where packed.

413.155. PACKAGES CONTAINING RANDOM WEIGHTS TO STATE PRICE PER SINGLE UNIT OF WEIGHT. — In addition to the declarations required by section 413.145, any package [which is] **being** one of a lot containing random weights of the same commodity [and bearing the total selling price of the package], **at the time it is offered or exposed for sale at retail**, shall bear on the outside of the package a plain and conspicuous declaration of the price per [single unit of weight] **kilogram or pound and the total selling price of the package**.

413.165. ADVERTISING PACKAGED COMMODITY STATING RETAIL PRICE, QUANTITY ALSO REQUIRED ON PACKAGE — DUAL DECLARATION, REQUIREMENT. — A representation or an advertisement for the sale of a commodity by weight, measure or count, whether packaged or unpackaged, which states the retail price, shall also contain a clear and conspicuous declaration of the quantity in terms of weight, measure or count, to include any size or dimension designation. Where a dual declaration is required, only the declaration that sets forth the quantity in terms of the [smaller] **largest whole unit with any remainder expressed in fractions** of weight or measure **required by law or regulation to appear on the package** need appear in the advertisement.

413.225. FEES — RATES — DUE AT TIME OF REGISTRATION, INSPECTION OR CALIBRATION, FAILURE TO PAY FEE, EFFECT, PENALTY. — 1. There is established a fee for registration, inspection and calibration services performed by the division of weights and measures. The fees are due at the time the service is rendered and shall be paid to the director by the person receiving the service. The director shall collect fees according to the following schedule and shall deposit them with the state treasurer into general revenue for the use of the state of Missouri:

(1) From August 28, 1994, until the next January first, laboratory fees for metrology calibrations shall be at the rate of twenty-five dollars per hour for tolerance testing and thirty-five dollars per hour for precision calibration. Time periods over one hour shall be computed to the nearest hour. On the first day of January, 1995, and each year thereafter, the director of agriculture shall ascertain the total receipts and expenses for the metrology calibrations during the preceding year and shall fix a fee schedule for the ensuing year at a rate per hour which shall

not exceed sixty dollars per hour for either method but shall not be less than twenty-five dollars per hour for tolerance testing and thirty-five dollars per hour for precision calibration, as will yield revenue not more than the total cost of operating the metrology laboratory during the ensuing year;

(2) From August 28, 1994, until the next January first, all scale test fees shall be charged as follows:

(a) Small scales shall be five dollars for each counter scale, ten dollars for platform scales up to one thousand-pound capacity, and twenty dollars for each platform scale over one thousand-pound capacity;

(b) Vehicle scales shall be fifty dollars each for the initial test and seventy-five dollars for each subsequent test within the same calendar year;

(c) Livestock scales shall be seventy-five dollars each for the initial test, and one hundred dollars for each subsequent test within the same calendar year;

(d) Hopper scales with a capacity of one thousand pounds or less shall be ten dollars each; for each hopper scale with a capacity of more than one thousand pounds up to and including two thousand pounds, the fee shall be twenty dollars; for each hopper scale with a capacity of more than two thousand pounds up to and including ten thousand pounds, the fee shall be fifty dollars; and for those hopper scales with a capacity of more than ten thousand pounds, the test fee shall be seventy-five dollars each;

(e) Railroad scales shall be fifty dollars each;

(f) Monorail scales shall be twenty-five dollars each for the initial test and fifty dollars for each subsequent test in the same calendar year;

(g) Participation in on-site field evaluations of devices for National Type Evaluation Program certification and all tests of in-motion scales including but not limited to vehicle, railroad and belt conveyor scales will be charged at the rate of thirty dollars per hour, plus mileage from the inspector's official domicile to and from the inspection site. The time shall begin when the state inspector performing the inspection arrives at the site to be inspected and shall end when the final report is signed by the owner/operator and the inspector departs;

(3) From August 28, 1994, until the next January first, certification of taximeters shall be five dollars per meter; timing devices, five dollars per device; fabric-measuring devices, wire- and cordage-measuring devices, five dollars per device; milk for quantity determination, twenty-five dollars per plant inspected;

(4) From August 28, 1994, until the next January first, certification of vehicle tank meters shall be twenty-five dollars each for the initial test and fifty dollars for each subsequent test in the same calendar year;

(5) Every person shall register each location of such person's place of business where devices or instruments are used to ascertain the moisture content of grains and seeds offered for sale, processing or storage in this state with the director and shall pay a registration fee of ten dollars for each location so registered and a fee of five dollars for each additional device or instrument at such location. Thereafter, by January thirty-first of each year, each person who is required to register pursuant to this subdivision shall pay an annual fee of ten dollars for each location so registered and an additional five dollars for each additional machine at each location. The fee on newly purchased devices shall be paid within thirty days after the date of purchase. Application for registration of a place of business shall be made on forms provided by the director and shall require information concerning the make, model and serial number of the device and such other information as the director shall deem necessary. Provided, however, this subsection shall not apply to moisture-measuring devices used exclusively for the purpose of obtaining information necessary to manufacturing processes involving plant products. In addition to fees required by this subdivision, a fee of ten dollars shall be charged for each device subject to retest.

2. On the first day of January, 1995, and each year thereafter, the director of agriculture shall ascertain the total receipts and expenses for the testing of weighing and measuring devices

referred to in subdivisions (2), (3), (4) and (5) of subsection 1 of this section and shall fix the fees or rate per hour for such weighing and measuring devices to derive revenue not more than the total cost of the operation, but such fees shall not be fixed in amounts less than the amounts contained in subdivisions (2), (3), (4) and (5) of subsection 1 of this section.

3. Except as indicated in subdivision (2)(b)(c) and (f) and subdivisions (4) and (5) of subsection 1, retests for any device within the same calendar year will be charged at the same rate as the initial test. Devices being retested in the same calendar year as a result of rejection and repair are exempt from the requirements of this subsection.

4. **All device inspection fees shall be paid within thirty days of the issuance of the original invoice.** [Fees not paid within thirty days from the date of the original invoice shall bear interest of one percent per month until the total amount is paid.] Any fee not paid within ninety days after the date of the original invoice [will be assessed a penalty of one hundred dollars in addition to the one percent interest per month. Fees plus interest and penalty not paid prior to the next scheduled inspection] will be cause for the director to deem the device as incorrect and it [shall] **may** be condemned and taken out of service, and may be seized by the director until all fees [and penalties] are paid.

5. No fee provided for by this section shall be required of any person owning or operating a moisture-measuring device or instrument who uses such device or instrument solely in agricultural or horticultural operations on such person's own land, and not in performing services, whether with or without compensation, for another person.

413.227. VIOLATIONS, PROCEDURE, NOTICES, CONTENTS — HEARING, RIGHTS OF VIOLATOR — PENALTY — APPEAL — DEPOSIT OF PENALTY. — 1. Any person found to be in violation of any provision of this chapter shall be issued a notice of violation. The notice shall state the date issued, the name and address of the person to whom issued, the nature of the violation, the statute or regulation violated, and the name and position of the person issuing the notice. The notice shall also contain a warning that the violation may result in an informal or formal administrative hearing or both.

2. Any person issued a notice of violation may be afforded an opportunity by the director to explain such facts at an informal hearing to be conducted within fourteen days of such notification. In the event that such person fails to timely respond to such notification or upon unsuccessful resolution of any issues relating to an alleged violation, such person may be summoned to a formal administrative hearing before the director or a designated hearing officer conducted in conformance with chapter 536, RSMo, and [if found to have committed two or more violations within twelve months,] may be ordered to cease and desist from such violations, such order may be enforced in the circuit court, and, in addition, may be required to pay a penalty of not more than five hundred dollars per violation. Any party to such hearing aggrieved by a determination of a hearing officer may appeal to the circuit court of the county in which the party resides, or if the party is the state, in Cole County, in accordance with chapter 536, RSMo.

3. Any penalty assessed and collected by the director shall be deposited with the state treasurer to the credit of the general revenue fund of the state.

4. Undercharges to consumers are not violations pursuant to this section.

413.229. CRIMINAL PENALTIES FOR VIOLATIONS. — 1. Any person found in violation of any provisions of this chapter shall be deemed guilty of a class A misdemeanor.

2. Any person found to have purposely violated any provisions of this chapter, has been previously convicted twice for the same offense under the misdemeanor provisions of this section, or uses or has in his or her possession for use a commercial device which has been altered to facilitate the commission of fraud shall be deemed guilty of a class D felony.

3. The prosecutor of each county in which a violation occurs shall be empowered to bring an action hereunder. If a prosecutor declines to bring such action, the attorney general may bring an action instead, and in so doing shall have all of the powers and jurisdiction of such prosecutor.

Approved June 12, 2002

SB 1078 [HCS SB 1078]

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 custodian of the Statutory County Recorder's Fund.

AN ACT to repeal sections 59.800 and 400.9-525, RSMo, and to enact in lieu thereof two new sections relating to the recording fees.

SECTION

- A. Enacting clause.
59.800. Additional five-dollar fee imposed, when, distribution — fund established.
400.9-525. Fees.

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

SECTION A. ENACTING CLAUSE. — Sections 59.800 and 400.9-525, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 59.800 and 400.9-525, to read as follows:

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 be deemed non-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.]

400.9-525. FEES. — (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in section 400.9-502(c), is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;** or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in section 400.9-502(c) is [the amount specified in subsection (c), if applicable, plus]:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;** or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(c) The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

(d) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) If the filing office is the secretary of state's office, then twenty-two dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by another medium authorized by filing-office rule, of which fee seven dollars is received and collected by the secretary of state on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, provided, however, that in any charter county or city not within a county whose employees are not members of the county employees' retirement fund, the fee collected for the county employees' retirement fund established pursuant to section 50.1010, RSMo, shall go to the general revenue fund of that charter county or city not within a county] **counties of this state for deposit in the uniform commercial code transition fee trust fund;** or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering

as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) The [secretary of state] **department of revenue** shall administer a special trust fund, which is hereby established, to be known as the "Uniform Commercial Code Transition Fee Trust Fund", and which shall be funded by seven dollars of each of the fees received and collected pursuant to subdivisions (a), (b) and [(c)] **(d)** of this section on behalf of the [county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund] **counties of this state for deposit in the uniform commercial code transition fee trust fund.**

(1) The secretary of state shall keep **and provide to the department of revenue and the county employees' retirement fund** an accurate record of the moneys **to be deposited** in the uniform commercial code transition fee trust fund allocated to each county and city not within a county on the basis of where such record, financing statement or other document would have been filed prior to July 1, 2001, and **the department of revenue** shall distribute the moneys pursuant to subdivision (2) of this subsection on that basis.

(2) The moneys in the uniform commercial code transition fee trust fund shall be distributed to the county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund.

(3) The moneys in the uniform commercial code transition fee trust fund shall [not] be deemed to be [state funds] **nonstate funds, as defined in section 15 of article IV of the Missouri Constitution, to be administered by the department of revenue**, provided, however that interest, if any, earned by the money in the trust fund shall be deposited into the general revenue fund in the state treasury.

Approved July 11, 2002

SB 1086 [HCS SCS SB 1086 & 1126]

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

Allows City of Independence to require abatement of weeds or trash.

AN ACT to repeal sections 67.398, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, RSMo, and to enact in lieu thereof ten new sections relating to nuisance abatement.

SECTION

- A. Enacting clause.
- 67.398. Debris on property, ordinance may require abatement — abatement for vacant building in Kansas City — effect of failure to remove nuisance, penalties.
- 67.402. Abatement of nuisance (Jefferson County) — ordinance requirements.
- 71.285. Weeds or trash, city may cause removal and issue tax bill, when — certain cities may order abatement and remove weeds or trash, when — section not to apply to certain cities, when — city official may order abatement in certain cities — removal of weeds or trash, costs.
- 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.
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- 447.638. Restoration of possession, compensation.
447.640. Quitclaim judicial deed may be granted, conditions, effect.

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

SECTION A. ENACTING CLAUSE.— Sections 67.398, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 67.398, 67.402, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, to read as follows:

67.398. DEBRIS ON PROPERTY, ORDINANCE MAY REQUIRE ABATEMENT — ABATEMENT FOR VACANT BUILDING IN KANSAS CITY — EFFECT OF FAILURE TO REMOVE NUISANCE, PENALTIES. — 1. The governing body of any city[, town] or village, or any county having a charter form of government, or any county of the first classification that contains part of a city with a population of at least three hundred thousand inhabitants, may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of [debris of any kind] **a nuisance** including, but not limited to, **debris of any kind**, weed cuttings, cut [and], fallen, or **hazardous** trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material **or condition** which is unhealthy or unsafe and declared to be a public nuisance.

2. **The governing body of any home rule city with more than four hundred thousand inhabitants and located in more than one county may enact ordinances for the abatement of a condition of any lot or land that has vacant buildings or structures open to entry.**

3. Any ordinance authorized by this section may provide that if the owner fails to begin removing **or abating** the nuisance within a specific time which shall not be [longer] **less** than seven days of receiving notice that the nuisance has been ordered removed **or abated**, or upon failure to pursue the removal **or abatement** of such nuisance without unnecessary delay, the building commissioner or designated officer [shall] **may** cause the condition which constitutes the nuisance to be removed **or abated**. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal **or abatement** shall be certified to the city clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

67.402. ABATEMENT OF NUISANCE (JEFFERSON COUNTY) — ORDINANCE REQUIREMENTS. — 1. **The governing body of any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances and broken furniture which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.**

2. **Any ordinance enacted pursuant to this section shall:**

(1) **Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;**

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons 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 shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

3. Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

71.285. WEEDS OR TRASH, CITY MAY CAUSE REMOVAL AND ISSUE TAX BILL, WHEN — CERTAIN CITIES MAY ORDER ABATEMENT AND REMOVE WEEDS OR TRASH, WHEN — SECTION NOT TO APPLY TO CERTAIN CITIES, WHEN — CITY OFFICIAL MAY ORDER ABATEMENT IN CERTAIN CITIES —REMOVAL OF WEEDS OR TRASH, COSTS. — 1. Whenever weeds or trash, in violation of an ordinance, are allowed to grow or accumulate, as the case may be, on any part of any lot or ground within any city, town or village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable. The marshal or other city official as designated in such ordinance shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or his or her or their agents, or by posting such notice on the premises; thereupon, the marshal or other designated city official may declare the weeds or trash to be a nuisance and order the same to be abated within five days; and in case the weeds or trash are not

removed within the five days, the marshal or other designated city official shall have the weeds or trash removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum. Notwithstanding the time limitations of this section, any city, town or village located in a county of the first classification may hold the hearing provided in this section four days after notice is sent or posted, and may order at the hearing that the weeds or trash shall be abated within five business days after the hearing and if such weeds or trash are not removed within five business days after the hearing, the order shall allow the city to immediately remove the weeds or trash pursuant to this section. Except for lands owned by a public utility, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation, the provisions of this subsection shall not apply to any city with a population of at least seventy thousand inhabitants which is located in a county of the first classification with a population of less than one hundred thousand inhabitants which adjoins a county with a population of less than one hundred thousand inhabitants that contains part of a city with a population of three hundred fifty thousand or more inhabitants, any 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, or any city, town or village located within a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, or any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, or the City of St. Louis, where such city, town or village establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants [or], in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, **or in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants**, the marshal or other designated city official may order that the weeds or trash be abated within five business days after notice is sent to or posted on the property. In case the weeds or trash are not removed within the five days, the marshal or other designated city official may have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section.

3. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or

more inhabitants [or], in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, **in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants or in any third class city with a population of at least ten thousand inhabitants but less than fifteen thousand inhabitants with the greater part of the population located in a county of the first classification**, the marshal or other designated official may, without further notification, have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section. The provisions of subsection 2 and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

4. The provisions of this section shall not apply to any 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 where such city establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

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.

Approved June 27, 2002

SB 1093 [HCS SCS SB 1093]

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 process for the registration of historic motor vehicle plates.

AN ACT to repeal section 301.131, RSMo, and to enact in lieu thereof one new section relating to historic motor vehicles, with penalty provisions.

SECTION

A. Enacting clause.

301.131. Historic motor vehicles, permanent registration, fee — license plates — annual mileage allowed, record to be kept — penalty.

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

SECTION A. ENACTING CLAUSE. — Section 301.131, RSMo, is repealed and one new section enacted in lieu thereof, to be know as section 301.131, to read as follows:

301.131. HISTORIC MOTOR VEHICLES, PERMANENT REGISTRATION, FEE — LICENSE PLATES — ANNUAL MILEAGE ALLOWED, RECORD TO BE KEPT — PENALTY. — 1. Any motor vehicle over twenty-five years old which is owned solely as a collector's item and which is used and intended to be used for exhibition and educational purposes shall be permanently registered upon payment of a registration fee of twenty-five dollars. Upon the transfer of the title to any such vehicle the registration shall be canceled and the license plates issued therefor shall be returned to the director of revenue.

2. The owner of any such vehicle shall file an application in a form prescribed by the director, if such vehicle meets the requirements of this section, and a certificate of registration shall be issued therefor. Such certificate need not specify the horsepower of the motor vehicle.

3. The director shall issue to the owner of any motor vehicle registered pursuant to this section the same number of license plates which would be issued with a regular annual registration, containing the number assigned to the registration certificate issued by the director of revenue. [Such license plates shall be kept securely attached to the motor vehicle registered hereunder. The advisory committee established in section 301.129 shall determine the characteristic features of such license plates for vehicles registered pursuant to the provisions of this section so that they may be recognized as such, except that] Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. Historic vehicles may be driven to and from repair facilities one hundred miles from the vehicle's location, and in addition may be driven up to one thousand miles per year for personal use. The owner of the historic vehicle shall be responsible for keeping a log of the miles driven for personal use each calendar year. Such log must be kept in the historic vehicle when the vehicle is driven on any state road. The historic vehicle's mileage driven in an antique auto tour or event and mileage driven to and from such a tour or event shall not be considered mileage driven for the purpose of the mileage limitations in this section. Violation of this section is a class C misdemeanor and in addition to any other penalties prescribed by law, upon conviction thereof, the director of revenue shall revoke the historic motor vehicle license plates of such violator which were issued pursuant to this section.

5. Notwithstanding any provisions of this section to the contrary, any person possessing a license plate issued by the state of Missouri [prior to 1979] **that is over twenty-five years old**, in which the year of the issuance of such plate is consistent with the year of the manufacture of the vehicle, the owner of the vehicle may register such plate as [a personalized plate by following the procedures for personalized license plate registration and paying the same fees as prescribed in section 301.144] **an historic vehicle plate as set forth in subsections 1 and 2 of this section, provided that the configuration of letters, numbers or combination of letters and numbers of such plate are not identical to the configuration of letters, numbers or combination of letters and numbers of any plates already issued to an owner by the director.** Such license plate shall not be required to possess the characteristic features of reflective material and common color scheme and design as prescribed in section 301.130. **The owner of the historic vehicle registered pursuant to this subsection shall keep the certificate of registration in the vehicle at all times. The certificate of registration shall be prima facie evidence that the vehicle has been properly registered with the director and that all fees have been paid.**

Approved July 3, 2002

SB 1094 [HCS SB 1094]

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 sunset for the nursing facility reimbursement allowance to September 30, 2005.

AN ACT to repeal section 198.439, RSMo, and to enact in lieu thereof two new sections relating to long-term care programs.

SECTION

- A. Enacting clause.
- 198.439. Expiration date.
- 354.407. PACE projects not deemed health maintenance organizations, when.

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 two new sections enacted in lieu thereof, to be known as sections 198.439 and 354.407 to read as follows:

198.439. EXPIRATION DATE. — Sections 198.401 to 198.436 shall expire on September 30, [2002] **2005**.

354.407. PACE PROJECTS NOT DEEMED HEALTH MAINTENANCE ORGANIZATIONS, WHEN. — **Notwithstanding the provisions of section 354.405 to the contrary, a program for all-inclusive care for the elderly (PACE) project sponsored by a religious or charitable organization that is itself or is controlled by an entity organized under Section 501(c)(3) of the Internal Revenue Code and which has had its application for the operation of a PACE program approved by the Center for Medicare and Medicaid Services of the federal Department of Health and Human Services and is operating under such approval shall not be deemed to be engaged in any business required to be licensed pursuant to section 354.405. Such exemption shall apply only to business conducted pursuant to the approved PACE contract and not to any other business that such organization may conduct.**

Approved July 3, 2002

SB 1102 [HCS SB 1102]

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

Allows county prosecutors jurisdiction for prosecuting nuisance cases under Section 191.683 RSMo.

AN ACT to repeal section 191.680, RSMo, and to enact in lieu thereof one new section relating to nuisance.

SECTION

- A. Enacting clause.
- 191.680. Maintaining a nuisance, abatement to be ordered, when.

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

SECTION A. ENACTING CLAUSE. — Section 191.680, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.680, to read as follows:

191.680. MAINTAINING A NUISANCE, ABATEMENT TO BE ORDERED, WHEN. — 1. Any person who shall erect, establish, continue, maintain, use, own, or lease any building, structure, or place used for the purpose of lewdness, assignation, or illegal purpose involving sexual or other contact through which transmission of HIV infection can occur is guilty of maintaining a nuisance.

2. The building, structure, or place, or the ground itself, in or upon which any such lewdness, assignation, or illegal purpose is conducted, permitted, carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such nuisance, are hereby declared to be a nuisance and shall be enjoined and abated as provided in subsection 3 of this section.

3. If the existence of a nuisance is admitted or established in an action pursuant to this section or in a criminal proceeding in any court, an order of abatement shall be entered as part of the judgment in the case. The order shall direct the effectual closing of the business for any purpose, and so keeping it closed for a period of one year.

4. The department of health and senior services, **a county prosecutor, or a circuit attorney** shall file suit in its own name in any court of competent jurisdiction to enforce the provisions of this section.

Approved July 12, 2002

SB 1107 [CCS HS HCS SS SCS SB 1107]

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

Revises laws relating to ambulance districts and ambulance services.

AN ACT to repeal sections 87.207, 87.235, 99.847, 190.044, 190.050, 190.092, 190.094, 190.100, 190.101, 190.105, 190.108, 190.109, 190.120, 190.131, 190.133, 190.142, 190.143, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 321.130 and 321.180, RSMo, and to enact in lieu thereof forty-three new sections relating to emergency services, with penalty provisions.

SECTION

A. Enacting clause.

- 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.
 - 99.847. Reimbursement from special allocation fund for emergency services, when — no new TIF projects authorized for flood plain areas in St. Charles County, applicability of restriction.
 - 190.050. Election districts, how established — election of directors — declaration of candidacy filed, where, when.
 - 190.051. Change in number of board members, when — ballot language.
 - 190.092. Defibrillators, use authorized when, conditions, notice — good faith immunity from civil liability, when.
 - 190.094. Minimum ambulance staffing for certain counties (Cass, Bates, Henry, Johnson and St. Clair)
 - 190.100. Definitions.
 - 190.101. State advisory council on emergency medical services, members, purpose, duties.
 - 190.105. Ambulance license required, exceptions — operation of ambulance services — sale or transfer of ownership, notice required.
 - 190.108. Air ambulance licenses — sale or transfer of ownership, notice required.
 - 190.109. Ground ambulance license.
 - 190.120. Insurance, what coverage required — policy provisions required — term of policy.
 - 190.131. Certification of training entities.
 - 190.133. Emergency medical response agency license — limitations.
 - 190.142. Emergency medical technician license — rules.
 - 190.143. Temporary emergency medical technician license granted, when — limitations — expiration.
 - 190.145. Lapse of license, request to return to active status, procedure.
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- 190.160. Renewals of licenses, requirements.
190.165. Suspension or revocation of licenses, grounds for.
190.171. Aggrieved party may seek review by administrative hearing commission.
190.172. Settlement agreements permitted, when — written impact statement may be submitted to administrative hearing commission.
190.175. Records to be maintained by licensee.
190.185. Rules and regulations, department to adopt — procedure.
190.196. Employer to comply with requirements of licensure — report of charges filed against licensee, when.
190.246. Epinephrine autoinjector, possession and use limitations — definitions — use of device considered first aid — violations, penalty.
190.248. Investigations of allegations of violations, completed when — access to records.
190.525. Definitions.
190.528. License required — political subdivisions not precluded from governing operation of service or enforcing ordinances — responsibilities and restrictions on operation of stretcher van services — rules.
190.531. Refusal to issue or denial of renewal of licenses permitted — complaint procedure — rules — immunity from liability, when — suspension of license, when.
190.534. Violations, penalty — attorney general to have concurrent jurisdiction.
190.537. Rulemaking authority.
191.630. Definitions.
191.631. Testing for disease, consent deemed given, when — hospital to conduct testing, written policies and procedures required — notification for confirmed exposure — limitations on testing and duties of hospitals — rules.
321.130. Directors, qualifications — candidate filing fee, oath.
321.180. Treasurer's duties — file bond — make annual financial statement.
321.552. Sales tax authorized in certain counties for ambulance and fire protection — ballot language — special trust fund established — refunds authorized.
321.554. Adjustment in total operating levy of district based on sales tax revenue — general reassessment, effect of.
321.556. Repeal of sales tax, procedure — ballot language.
1. Ambulance services to have same statutory lien rights as hospitals — recovery of lien, net proceeds to be shared with patient, when — release of claimant from liability, when.
190.044. Ambulance service tax from one district only (third class counties), petition.

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

SECTION A. ENACTING CLAUSE. — Sections 87.207, 87.235, 99.847, 190.044, 190.050, 190.092, 190.094, 190.100, 190.101, 190.105, 190.108, 190.109, 190.120, 190.131, 190.133, 190.142, 190.143, 190.160, 190.165, 190.171, 190.175, 190.185, 190.196, 321.130 and 321.180, RSMo, are repealed and forty-three new sections enacted in lieu thereof, to be known as sections 87.177, 87.207, 87.231, 87.235, 87.238, 99.847, 190.050, 190.051, 190.092, 190.094, 190.100, 190.101, 190.105, 190.108, 190.109, 190.120, 190.131, 190.133, 190.142, 190.143, 190.145, 190.160, 190.165, 190.171, 190.172, 190.175, 190.185, 190.196, 190.246, 190.248, 190.525, 190.528, 190.531, 190.534, 190.537, 191.630, 191.631, 321.130, 321.180, 321.552, 321.554, 321.556, and 1, to read as follows:

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.

99.847. REIMBURSEMENT FROM SPECIAL ALLOCATION FUND FOR EMERGENCY SERVICES, WHEN — NO NEW TIF PROJECTS AUTHORIZED FOR FLOOD PLAIN AREAS IN ST. CHARLES COUNTY, APPLICABILITY OF RESTRICTION. — 1. Any district providing emergency services pursuant to chapter 190 or 321, RSMo, [upon the provision of evidence to the governing body of the municipality that direct costs incurred by such district in providing emergency services to the redevelopment area are directly attributable to the operation of redevelopment projects as these terms are defined in section 99.805, in the redevelopment area,] shall be entitled to reimbursement from the special allocation fund [for direct costs to the extent that such district can demonstrate that the increased tax revenues it receives from such projects in such areas are insufficient to fund such direct costs. However, such reimbursement shall not be less than twenty-five] in the amount of at least fifty percent nor more than one hundred percent of the district's tax increment.

2. Notwithstanding the provisions of sections 99.800 to 99.865, RSMo, to the contrary, no new tax increment financing project shall be authorized in any area which is within an area designated as flood plain by the Federal Emergency Management Agency and which is located in or partly within a county with a charter form of government with greater than two hundred fifty thousand inhabitants but fewer than three hundred thousand inhabitants.

3. This subsection shall not apply to tax increment financing projects or districts approved prior to July 1, 2003, and shall allow the aforementioned tax increment financing projects to modify, amend or expand such projects including redevelopment project costs by not more than forty percent of such project original projected cost including redevelopment project costs as such projects including redevelopment project costs as such projects redevelopment projects including redevelopment project costs existed as of June 30, 2003, and shall allow the aforementioned tax increment financing district to modify, amend or expand such districts by not more than five percent as such districts existed as of June 30, 2003.

190.050. ELECTION DISTRICTS, HOW ESTABLISHED — ELECTION OF DIRECTORS — DECLARATION OF CANDIDACY FILED, WHERE, WHEN. — 1. After the ambulance district has been declared organized, the declaring county commission, except in counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of government which has a population of over nine hundred thousand inhabitants, shall divide the district into six election districts as equal in population as possible, and shall by lot number the districts from one to six inclusive. The county commission shall cause an election to be held in the ambulance district within ninety days after the order establishing the ambulance district to elect ambulance district directors. Each voter shall vote for one director from the ambulance election district in which the voter resides. The directors elected from districts one and four shall serve for a term of one year, the directors elected from districts two and five shall serve for a term of two years, and the directors from districts three and six shall serve for a term of three years; thereafter, the terms of all directors shall be three years. All directors shall serve the term to which they were elected or appointed, and until their successors are elected and qualified, except in cases of resignation or disqualification. The county commission shall reapportion the ambulance districts within sixty days after the population of the county is reported to the governor for each decennial census of the United States. Notwithstanding any other provision of law, if the number of candidates for the office of director is no greater than the number of directors to be elected, no election shall be

held, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they have been elected.

2. In all counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of government which has a population of over nine hundred thousand inhabitants, the voters shall vote for six directors elected at large from within the district for a term of three years. Those directors holding office in any district in such a county on August 13, 1976, shall continue to hold office until the expiration of their terms, and their successors shall be elected from the district at large for a term of three years. In any district formed in such counties after August 13, 1976, the governing body of the county shall cause an election to be held in that district within ninety days after the order establishing the ambulance district to elect ambulance district directors. Each voter shall vote for six directors. The two candidates receiving the highest number of votes at such election shall be elected for a term of three years, the two candidates receiving the third and fourth highest number of votes shall be elected for a term of two years, the two candidates receiving the fifth and sixth highest number of votes shall be elected for a term of one year; thereafter, the term of all directors shall be three years.

3. A candidate for director of the ambulance district shall, at the time of filing, be a citizen of the United States, a qualified voter of the election district as provided in subsection 1 of this section, a resident of the [state for one year] **district for two years** next preceding the election, and shall be at least [twenty-one] **twenty-four** years of age. In an established district which is located within the jurisdiction of more than one election authority, the candidate shall file his **or her** declaration of candidacy with the secretary of the board. In all other districts, a candidate shall file [his] **a** declaration of candidacy with the county clerk of the county in which he **or she** resides. A candidate shall file a statement under oath that he **or she** possesses the required qualifications. No candidate's name shall be printed on any official ballot unless the candidate has filed a written declaration of candidacy pursuant to subsection 5 of section 115.127, RSMo. If the time between the county commission's call for a special election and the date of the election is not sufficient to allow compliance with subsection 5 of section 115.127, RSMo, the county commission shall, at the time it calls the special election, set the closing date for filing declarations of candidacy.

190.051. CHANGE IN NUMBER OF BOARD MEMBERS, WHEN — BALLOT LANGUAGE. —

1. Notwithstanding the provisions of sections 190.050 and 190.052 to the contrary, upon a motion by the board of directors in districts where there are six-member boards, and upon approval by the voters in the district, the number of directors may be increased to seven with one board member running district wide, or decreased to five or three board members. The ballot to be used for the approval of the voters to increase or decrease the number of members on the board of directors of the ambulance district shall be substantially in the following form:

Shall the number of members of the board of directors of the (Insert name of district) Ambulance District be (increased to seven members/decreased to five members/decreased to three members)?

YES NO

2. If a majority of the voters voting on a proposition to increase the number of board members to seven vote in favor of the proposition, then at the next election of board members after the voters vote to increase the number of directors, the voters shall select one person to serve in addition to the existing six directors as the member who shall run district wide.

3. If a majority of the voters voting on a proposition to decrease the number of board members vote in favor of the proposition, then the county clerk shall redraw the district into the resulting number of subdistricts with equal population bases and hold elections

by subdistricts pursuant to section 190.050. Thereafter, members of the board shall be elected to serve terms of three years and until their successors are duly elected and qualified.

4. Members of the board of directors in office on the date of an election pursuant to this section to increase or decrease the number of members of the board of directors shall serve the term to which they were elected or appointed and until their successors are elected and qualified.

190.092. DEFIBRILLATORS, USE AUTHORIZED WHEN, CONDITIONS, NOTICE — GOOD FAITH IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. [For purposes of this section, "first responder" shall be defined as a person who has successfully completed an emergency first response course meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.180 and who provides emergency medical care through employment by, or in association with, an emergency medical response agency. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

2. Any county, municipality or fire protection district may establish a program to allow the use of automated external defibrillators by any person properly qualified who follows medical protocol for use of the device or member of a fire, police, ambulance service, emergency medical response agency or first responder agency provided that such person has completed a course certified by the American Red Cross or American Heart Association that includes cardiopulmonary resuscitation training and demonstrated proficiency in the use of such automated external defibrillators.

3.] A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person **or entity** that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician [provide medical protocol for the use of the device] **review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.**

[4.] 2. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

[5.] 3. Any person who has had appropriate training, including a course in cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator, and who gratuitously and in good faith renders emergency care when medically appropriate by use of or provision of an automated external defibrillator, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment, where the person acts as an ordinarily reasonable, prudent person, or with regard to a health care professional, **including the licensed physician who reviews and approves the clinical protocol**, as a reasonably prudent and careful health care provider would have acted, under the same or similar circumstances. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo.

190.094. MINIMUM AMBULANCE STAFFING FOR CERTAIN COUNTIES (CASS, BATES, HENRY, JOHNSON AND ST. CLAIR) — In any county of the second classification containing part of a city which is located in four counties and any county bordering said county on the east and south and in any county of the third classification with a population of at least eight thousand four hundred but less than eight thousand five hundred inhabitants containing part of a lake of nine hundred fifty-eight miles of shoreline but less than one thousand miles of shoreline each ambulance, when in use as an ambulance, shall be staffed with a minimum of one emergency medical technician and one other crew member as set forth in rules adopted by the department. When transporting a patient, at least one licensed emergency medical technician, [mobile emergency medical technician,] registered nurse or physician shall be in attendance with the patient in the patient compartment at all times.

190.100. DEFINITIONS. — As used in sections 190.001 to 190.245, the following words and terms mean:

(1) "Advanced life support (ALS)", an advanced level of care as provided to the adult and pediatric patient such as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(2) "Ambulance", any privately or publicly owned vehicle or craft that is specially designed, constructed or modified, staffed or equipped for, and is intended or used, maintained or operated for the transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or who require the presence of medical equipment being used on such individuals, but the term does not include any motor vehicle specially designed, constructed or converted for the regular transportation of persons who are disabled, handicapped, normally using a wheelchair, or otherwise not acutely ill, or emergency vehicles used within airports;

(3) "Ambulance service", a person or entity that provides emergency or nonemergency ambulance transportation and services, or both, in compliance with sections 190.001 to 190.245, and the rules promulgated by the department pursuant to sections 190.001 to 190.245;

(4) "Ambulance service area", a specific geographic area in which an ambulance service has been authorized to operate;

(5) "Basic life support (BLS)", a basic level of care, as provided to the adult and pediatric patient as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(6) "Council", the state advisory council on emergency medical services;

(7) "Department", the department of health and senior services, state of Missouri;

(8) "Director", the director of the department of health and senior services or the director's duly authorized representative;

(9) "Dispatch agency", any person or organization that receives requests for emergency medical services from the public, by telephone or other means, and is responsible for dispatching emergency medical services;

(10) "Emergency", 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 layperson, possessing an average knowledge of health and medicine, to believe that the absence of immediate medical care could result in:

(a) Placing the person's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain;

(11) "Emergency medical dispatcher", a person who receives emergency calls from the public and has successfully completed an emergency medical dispatcher course, meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;

(12) "Emergency medical response agency", any person that regularly provides a level of care that includes first response, basic life support or advanced life support, exclusive of patient transportation;

(13) "Emergency medical services for children (EMS-C) system", the arrangement of personnel, facilities and equipment for effective and coordinated delivery of pediatric emergency medical services required in prevention and management of incidents which occur as a result of a medical emergency or of an injury event, natural disaster or similar situation;

(14) "Emergency medical services (EMS) system", the arrangement of personnel, facilities and equipment for the effective and coordinated delivery of emergency medical services required in prevention and management of incidents occurring as a result of an illness, injury, natural disaster or similar situation;

(15) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, and by rules adopted by the department pursuant to sections 190.001 to 190.245;

(16) "Emergency medical technician-basic" or "EMT-B", a person who has successfully completed a course of instruction in basic life support as prescribed by the department and is licensed by the department in accordance with standards prescribed by sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

(17) "Emergency medical technician-intermediate" or "EMT-I", a person who has successfully completed a course of instruction in certain aspects of advanced life support care as prescribed by the department, and is serving with an emergency medical response agency licensed in any county of the first classification without a charter form of government and with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants, and is licensed by the department in accordance with sections 190.001 to 190.245 and rules and regulations adopted by the department pursuant to sections 190.001 to 190.245;

[(17)] (18) "Emergency medical technician-paramedic" or "EMT-P", a person who has successfully completed a course of instruction in advanced life support care as prescribed by the department and is licensed by the department in accordance with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

[(18)] (19) "Emergency services", health care items and services furnished or required to screen and stabilize an emergency 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 or by an ambulance service or emergency medical response agency;

[(19)] (20) "First responder", a person who has successfully completed an emergency first response course meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245 and who provides emergency medical care through employment by or in association with an emergency medical response agency;

[(20)] (21) "Health care facility", a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed;

[(21)] (22) "Hospital", an establishment as defined in the hospital licensing law, subsection 2 of section 197.020, RSMo, or a hospital operated by the state;

[(22)] (23) "Medical control", supervision provided by or under the direction of physicians to providers by written or verbal communications;

[(23)] (24) "Medical direction", medical guidance and supervision provided by a physician to an emergency services provider or emergency medical services system;

[(24)] (25) "Medical director", a physician licensed pursuant to chapter 334, RSMo, designated by the ambulance service or emergency medical response agency and who meets criteria specified by the department by rules pursuant to sections 190.001 to 190.245;

[(25)] (26) "Memorandum of understanding", an agreement between an emergency medical response agency or dispatch agency and an ambulance service or services within whose territory the agency operates, in order to coordinate emergency medical services;

[(26)] (27) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise incapacitated or helpless, or dead, excluding deceased individuals being transported from or between private or public institutions, homes or cemeteries, and individuals declared dead prior to the time an ambulance is called for assistance;

[(27)] (28) "Person", as used in these definitions and elsewhere in sections 190.001 to 190.245, any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, public trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user or provider;

[(28)] (29) "Physician", a person licensed as a physician pursuant to chapter 334, RSMo;

[(29)] (30) "Political subdivision", any municipality, city, county, city not within a county, ambulance district or fire protection district located in this state which provides or has authority to provide ambulance service;

[(30)] (31) "Professional organization", any organized group or association with an ongoing interest regarding emergency medical services. Such groups and associations could include those representing volunteers, labor, management, firefighters, EMT-B's, nurses, EMT-P's, physicians, communications specialists and instructors. Organizations could also represent the interests of ground ambulance services, air ambulance services, fire service organizations, law enforcement, hospitals, trauma centers, communication centers, pediatric services, labor unions and poison control services;

[(31)] (32) **"Proof of financial responsibility", proof of ability to respond to damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance or use of a motor vehicle in the financial amount set in rules promulgated by the department, but in no event less than the statutory minimum required for motor vehicles. Proof of financial responsibility shall be used as proof of self-insurance;**

(33) "Protocol", a predetermined, written medical care guideline, which may include standing orders;

[32] (34) "Regional EMS advisory committee", a committee formed within an emergency medical services (EMS) region to advise ambulance services, the state advisory council on EMS and the department;

(35) "Specialty care transportation", the transportation of a patient requiring the services of an emergency medical technician-paramedic who has received additional training beyond the training prescribed by the department. Specialty care transportation services shall be defined in writing in the appropriate local protocols for ground and air ambulance services and approved by the local physician medical director. The protocols shall be maintained by the local ambulance service and shall define the additional training required of the emergency medical technician-paramedic;

[33] (36) "Stabilize", with respect to an emergency, the provision of such medical treatment as may be necessary to attempt to assure within reasonable medical probability that no material deterioration of an individual's medical condition is likely to result from or occur during ambulance transportation unless the likely benefits of such transportation outweigh the risks;

[34] (37) "State advisory council on emergency medical services", a committee formed to advise the department on policy affecting emergency medical service throughout the state;

[35] (38) "State EMS medical directors advisory committee", a subcommittee of the state advisory council on emergency medical services formed to advise the state advisory council on emergency medical services and the department on medical issues;

[36] (39) "Trauma", an injury to human tissues and organs resulting from the transfer of energy from the environment;

[37] (40) "Trauma care" includes injury prevention, triage, acute care and rehabilitative services for major single system or multisystem injuries that potentially require immediate medical or surgical intervention or treatment;

[38] (41) "Trauma center", a hospital that is currently designated as such by the department.

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] **sixteen** members, **one of which shall be a resident of a city not within a county**. 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 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.

190.105. AMBULANCE LICENSE REQUIRED, EXCEPTIONS — OPERATION OF AMBULANCE SERVICES — SALE OR TRANSFER OF OWNERSHIP, NOTICE REQUIRED. — 1. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients by ambulance in the air, upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for an ambulance service issued pursuant to the provisions of sections 190.001 to 190.245.

2. No ground ambulance shall be operated for ambulance purposes, and no individual shall drive, attend or permit it to be operated for such purposes in the state of Missouri unless the ground ambulance is under the immediate supervision and direction of a person who is holding a currently valid Missouri license as an emergency medical technician; except that]. Nothing in this section shall be construed to mean that a duly registered nurse or a duly licensed physician be required to hold an emergency medical technician's license. Each ambulance service is responsible for assuring that any person driving its ambulance is competent in emergency vehicle operations and has a safe driving record. **Each ground ambulance shall be staffed with at least two licensed individuals when transporting a patient, except as provided in section 190.094.**

3. No license shall be required for an ambulance service, or for the attendant of an ambulance, which:

(1) Is rendering assistance in the case of an emergency, major catastrophe or any other unforeseen event or series of events which jeopardizes the ability of the local ambulance service to promptly respond to emergencies; or

(2) Is operated from a location or headquarters outside of Missouri in order to transport patients who are picked up beyond the limits of Missouri to locations within or outside of Missouri, but no such outside ambulance shall be used to pick up patients within Missouri for transportation to locations within Missouri, except as provided in subdivision (1) of this subsection.

4. The issuance of a license [under] **pursuant to** the provisions of sections 190.001 to 190.245 shall not be construed so as to authorize any person to provide ambulance services or to operate any ambulances without a franchise in any city not within a county or in a political subdivision in any county with a population of over nine hundred thousand inhabitants, or a franchise, contract or mutual-aid agreement in any other political subdivision which has enacted an ordinance making it unlawful to do so.

5. Sections 190.001 to 190.245 shall not preclude the adoption of any law, ordinance or regulation not in conflict with such sections by any city not within a county, or at least as strict as such sections by any county, municipality or political subdivision except that no such regulations or ordinances shall be adopted by a political subdivision in a county with a population of over nine hundred thousand inhabitants except by the county's governing body.

6. In a county with a population of over nine hundred thousand inhabitants, the governing body of the county shall set the standards for all ambulance services which shall comply with subsection 5 of this section. All such ambulance services must be licensed by the department. The governing body of such county shall not prohibit a licensed ambulance service from operating in the county, as long as the ambulance service meets county standards.

7. An ambulance service or vehicle when operated for the purpose of transporting persons who are sick, injured, or otherwise incapacitated shall not be treated as a common or contract carrier under the jurisdiction of the Missouri [public service commission] **division of motor carrier and railroad safety.**

8. Sections 190.001 to 190.245 shall not apply to, nor be construed to include, any motor vehicle used by an employer for the transportation of such employer's employees whose illness or injury occurs on private property, and not on a public highway or property, nor to any person operating such a motor vehicle.

9. A political subdivision that is authorized to operate a licensed ambulance service may establish, operate, maintain and manage its ambulance service, and select and contract with a licensed ambulance service. Any political subdivision may contract with a licensed ambulance service.

10. Except as provided in subsections 5 and 6, nothing in section 67.300, RSMo, or subsection 2 of section 190.109, shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to promulgate laws, ordinances or regulations related to the provision of ambulance services. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

11. Nothing in section 67.300, RSMo, or subsection 2 of section 190.109 shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to operate an ambulance service without a franchise in an ambulance district or a fire protection district that is authorized to provide ambulance service which has enacted an ordinance making it unlawful to do so. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

12. No provider of ambulance service within the state of Missouri which is licensed by the department to provide such service shall discriminate regarding treatment or transportation of emergency patients on the basis of race, sex, age, color, religion, sexual preference, national origin, ancestry, handicap, medical condition or ability to pay.

13. No provision of this section, other than subsections 5, 6, 10 and 11 of this section, is intended to limit or supersede the powers given to ambulance districts pursuant to this chapter or to fire protection districts pursuant to chapter 321, RSMo, or to counties, cities, towns and villages pursuant to chapter 67, RSMo.

14. Upon the sale or transfer of any ground ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days of such sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.001 to 190.245.

190.108. AIR AMBULANCE LICENSES — SALE OR TRANSFER OF OWNERSHIP, NOTICE REQUIRED. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an air ambulance license.

2. The department shall have the authority and responsibility to license an air ambulance service in accordance with sections 190.001 to 190.245, and in accordance with rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an air ambulance license including, but not limited to:

- (1) Medical control plans;
 - (2) Medical director qualifications;
 - (3) Air medical staff qualifications;
 - (4) Response and operations standards to assure that the health and safety needs of the public are met;
 - (5) Standards for air medical communications;
 - (6) Criteria for compliance with licensure requirements;
 - (7) Records and forms;
 - (8) Equipment requirements;
 - (9) Five-year license renewal;
 - (10) Quality improvement committees; and
 - (11) Response time, patient care and transportation standards.
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3. Application for an air ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the air ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. Upon the sale or transfer of any air ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days of such sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.001 to 190.245.

190.109. GROUND AMBULANCE LICENSE. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for a ground ambulance license.

2. Any person that owned and operated a licensed ambulance on December 31, 1997, shall receive an ambulance service license from the department, unless suspended, revoked or terminated, for that ambulance service area which was, on December 31, 1997, described and filed with the department as the primary service area for its licensed ambulances on August 28, 1998, provided that the person makes application and adheres to the rules and regulations promulgated by the department pursuant to sections 190.001 to 190.245.

3. The department shall issue a new ground ambulance service license to an ambulance service that is not currently licensed by the department, or is currently licensed by the department and is seeking to expand its ambulance service area, except as provided in subsection 4 of this section, to be valid for a period of five years, unless suspended, revoked or terminated, when the director finds that the applicant meets the requirements of ambulance service licensure established pursuant to sections 190.100 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. In order to be considered for a new ambulance service license, an ambulance service shall submit to the department a letter of endorsement from each ambulance district or fire protection district that is authorized to provide ambulance service, or from each municipality not within an ambulance district or fire protection district that is authorized to provide ambulance service, in which the ambulance service proposes to operate. If an ambulance service proposes to operate in unincorporated portions of a county not within an ambulance district or fire protection district that is authorized to provide ambulance service, in order to be considered for a new ambulance service license, the ambulance service shall submit to the department a letter of endorsement from the county. Any letter of endorsement **required pursuant to this section** shall verify that the political subdivision has conducted a public hearing regarding the endorsement and that the governing body of the political subdivision has adopted a resolution approving the endorsement. **The letter of endorsement shall affirmatively state that the proposed ambulance service:**

- (1) Will provide a benefit to public health that outweighs the associated costs;**
- (2) Will maintain or enhance the public's access to ambulance services;**
- (3) Will maintain or improve the public health and promote the continued development of the regional emergency medical service system;**
- (4) Has demonstrated the appropriate expertise in the operation of ambulance services; and**
- (5) Has demonstrated the financial resources necessary for the operation of the proposed ambulance service.**

4. A contract between a political subdivision and a licensed ambulance service for the provision of ambulance services for that political subdivision shall expand, without further action by the department, the ambulance service area of the licensed ambulance service to include the jurisdictional boundaries of the political subdivision. The termination of the aforementioned contract shall result in a reduction of the licensed ambulance service's ambulance service area by

removing the geographic area of the political subdivision from its ambulance service area, except that licensed ambulance service providers may provide ambulance services as are needed at and around the state fair grounds for protection of attendees at the state fair.

5. The department shall renew a ground ambulance service license if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245.

6. The department shall promulgate rules relating to the requirements for a ground ambulance service license including, but not limited to:

- (1) Vehicle design, specification, operation and maintenance standards;
- (2) Equipment requirements;
- (3) Staffing requirements;
- (4) Five-year license renewal;
- (5) Records and forms;
- (6) Medical control plans;
- (7) Medical director qualifications;
- (8) Standards for medical communications;
- (9) Memorandums of understanding with emergency medical response agencies that provide advanced life support;
- (10) Quality improvement committees; and
- (11) Response time, patient care and transportation standards.

7. Application for a ground ambulance service license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the ground ambulance service meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

190.120. INSURANCE, WHAT COVERAGE REQUIRED — POLICY PROVISIONS REQUIRED — TERM OF POLICY. — 1. No ambulance service license shall be issued pursuant to sections 190.001 to 190.245, nor shall such license be valid after issuance, nor shall any ambulance be operated in Missouri unless there is at all times in force and effect insurance coverage [issued by an insurance company] **or proof of financial responsibility with adequate reserves maintained** for each and every ambulance owned or operated by or for the applicant or licensee[, or unless any city not within a county which owns or operates the license has at all times sufficient self-insurance coverage] to provide for the payment of damages in an amount as prescribed in regulation:

- (1) For injury to or death of individuals in accidents resulting from any cause for which the owner of [said] **such** vehicle would be liable on account of liability imposed on him **or her** by law, regardless of whether the ambulance was being driven by the owner or the owner's agent; and
- (2) For the loss of or damage to the property of another, including personal property, under like circumstances.

2. The insurance policy[, or in the case of a self-insured city not within a county, proof of self-insurance,] **or proof of financial responsibility** shall be submitted by all licensees required to provide such insurance pursuant to sections 190.001 to 190.245. The insurance policy, or proof of the existence of [self-insurance of a city not within a county] **financial responsibility**, shall be submitted to the director, in such form as the director may specify, for the director's approval prior to the issuance of each ambulance service license.

3. Every insurance policy **or proof of financial responsibility document** required by the provisions of this section shall contain [or in the case of a self-insured city not within a county shall have] proof of a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon; that the liability of the insurer shall not be affected by the insolvency or the bankruptcy of the assured; and that until the policy is revoked the insurance

company or self-insured [city not within a county] **licensee or entity** will not be relieved from liability on account of nonpayment of premium, failure to renew license at the end of the year, or any act or omission of the named assured. Such policy of insurance or self-insurance shall be further conditioned for the payment of any judgments up to the limits of [said] **such** policy, recovered against any person other than the owner, the owner's agent or employee, who may operate the same with the consent of the owner.

4. Every insurance policy or self-insured [city not within a county] **licensee or entity** as required by the provisions of this section shall extend for the period to be covered by the license applied for and the insurer shall be obligated to give not less than thirty days' written notice to the director and to the insured before any cancellation or termination thereof earlier than its expiration date, and the cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued for the ambulance service covered by such policy unless covered by another insurance policy in compliance with sections 190.001 to 190.245.

190.131. CERTIFICATION OF TRAINING ENTITIES. — 1. The department shall accredit or certify training entities for first responders, emergency medical dispatchers, emergency medical technicians-basic, **emergency medical technicians-intermediate**, and emergency medical technicians-paramedic, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245.

2. Such rules promulgated by the department shall set forth the minimum requirements for entrance criteria, training program curricula, instructors, facilities, equipment, medical oversight, record keeping, and reporting.

3. Application for training entity accreditation or certification shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems reasonably necessary to make a determination as to whether the training entity meets all requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. Upon receipt of such application for training entity accreditation or certification, the department shall determine whether the training entity, its instructors, facilities, equipment, curricula and medical oversight meet the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

5. Upon finding these requirements satisfied, the department shall issue a training entity accreditation or certification in accordance with rules promulgated by the department pursuant to sections 190.001 to 190.245.

6. Subsequent to the issuance of a training entity accreditation or certification, the department shall cause a periodic review of the training entity to assure continued compliance with the requirements of sections 190.001 to 190.245 and all rules promulgated pursuant to sections 190.001 to 190.245.

7. No person or entity shall hold itself out or provide training required by this section without accreditation or certification by the department.

190.133. EMERGENCY MEDICAL RESPONSE AGENCY LICENSE — LIMITATIONS. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an emergency medical response agency license.

2. The department shall issue a license to any emergency medical response agency which provides advanced life support if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical response agency including, but not limited to:

- (1) A licensure period of five years;
- (2) Medical direction;

- (3) Records and forms; and
- (4) Memorandum of understanding with local ambulance services.

3. Application for an emergency medical response agency license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical response agency meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. No person or entity shall hold itself out as an emergency medical response agency that provides advanced life support or provide the services of an emergency medical response agency that provides advanced life support unless such person or entity is licensed by the department.

5. Only emergency medical response agencies licensed and serving in any county of the first classification without a charter form of government and with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants will be licensed to provide certain ALS services with the services of EMT-Is.

6. Emergency medical response agencies functioning with the services of EMT-Is must work in collaboration with an ambulance service providing advanced life support with personnel trained to the emergency medical technician-paramedic level.

190.142. EMERGENCY MEDICAL TECHNICIAN LICENSE—RULES. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as it deems necessary to be made of the applicant for an emergency medical technician's license. The director may authorize investigations into criminal records in other states for any applicant.

2. The department shall issue a license to all levels of emergency medical technicians, for a period of five years, if the applicant meets the requirements established pursuant to sections 190.001 to 190.245 and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical technician including but not limited to:

- (1) Age requirements;
- (2) Education and training requirements based on respective national curricula of the United States Department of Transportation and any modification to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;
- (3) Initial licensure testing requirements;
- (4) Continuing education and relicensure requirements; and
- (5) Ability to speak, read and write the English language.

3. Application for all levels of emergency medical technician license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical technician meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. All levels of emergency medical technicians may perform only that patient care which is:

- (1) Consistent with the training, education and experience of the particular emergency medical technician; and
- (2) Ordered by a physician or set forth in protocols approved by the medical director.

5. No person shall hold themselves out as an emergency medical technician or provide the services of an emergency medical technician unless such person is licensed by the department.

6. [All patients transported in a supine position in a vehicle other than an ambulance shall receive an appropriate level of care. The department shall promulgate rules regarding the provisions of this section. This subsection shall only apply to vehicles transporting patients for a fee.] **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.**

190.143. TEMPORARY EMERGENCY MEDICAL TECHNICIAN LICENSE GRANTED, WHEN — LIMITATIONS — EXPIRATION. — 1. Notwithstanding any other provisions of law, the department may grant a ninety-day temporary emergency medical technician license to all levels of emergency medical technicians who meet the following:

(1) Can demonstrate that they have, or will have employment requiring an emergency medical technician license;

(2) **Are not currently licensed as an emergency medical technician in Missouri** or have been licensed as an emergency medical technician in Missouri and fingerprints need to be submitted to the Federal Bureau of Investigation to verify the existence or absence of a criminal history, or they are currently licensed and the license will expire before a verification can be completed of the existence or absence of a criminal history;

(3) Have submitted a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245;

(4) Have not been disciplined pursuant to sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245;

(5) Meet all the requirements of rules promulgated pursuant to sections 190.001 to 190.245.

2. A temporary emergency medical technician license shall only authorize the license to practice while under the immediate supervision of a licensed emergency medical technician-basic, emergency medical technician-paramedic, registered nurse or physician who is currently licensed, without restrictions, to practice in Missouri.

3. A temporary emergency medical technician license shall automatically expire either ninety days from the date of issuance or upon the issuance of a five-year emergency medical technician license.

190.145. LAPSE OF LICENSE, REQUEST TO RETURN TO ACTIVE STATUS, PROCEDURE. — Any licensee allowing a license to lapse may within two years of the lapse request that their license be returned to active status by notifying the department in advance of such intention, and submit a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. If the licensee meets all the requirements for relicensure, the department shall issue a new emergency medical technician license to the licensee.

190.160. RENEWALS OF LICENSES, REQUIREMENTS. — The renewal of any license shall require conformance with sections 190.001 to 190.245 and sections 190.525 to 190.537, and rules adopted by the department pursuant to sections 190.001 to 190.245 and sections 190.525 to 190.537.

190.165. SUSPENSION OR REVOCATION OF LICENSES, GROUNDS FOR. — 1. The department may refuse to issue or deny renewal of any certificate, permit or license required pursuant to sections 190.100 to 190.245 for failure to comply with the provisions of [this act]

sections 190.100 to 190.245 or any lawful regulations promulgated by the department to implement its provisions as described in subsection 2 of this section. The department 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 department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate, permit or license required by sections 190.100 to 190.245 or any person who has failed to renew or has surrendered his or her certificate, permit or license for failure to comply with the provisions of sections 190.100 to 190.245 or any lawful regulations promulgated by the department to implement such sections. Those regulations shall be limited to the following:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any activity licensed or regulated by sections 190.100 to 190.245;

(2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any activity licensed or regulated pursuant to sections 190.100 to 190.245, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to sections 190.100 to 190.245 or in obtaining permission to take any examination given or required pursuant to sections 190.100 to 190.245;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any activity licensed or regulated by sections 190.100 to 190.245;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 190.100 to 190.245, or of any lawful rule or regulation adopted by the department pursuant to sections 190.100 to 190.245;

(7) Impersonation of any person holding a certificate, permit or license or allowing any person to use his or her certificate, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any activity regulated by sections 190.100 to 190.245 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) For an individual being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any activity licensed or regulated by sections 190.100 to 190.245 who is not licensed and currently eligible to practice pursuant to sections 190.100 to 190.245;

(11) Issuance of a certificate, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(15) Refusal of any applicant or licensee to cooperate with the department of health and senior services during any investigation;

(16) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public;

(17) Repeated negligence in the performance of the functions or duties of any activity licensed or regulated by sections 190.100 to 190.245.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate or permit.

4. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department after compliance with all the requirements of sections 190.100 to 190.245 relative to the licensing of an applicant for the first time. **Any individual whose license has been revoked twice within a ten-year period shall not be eligible for relicensure.**

5. The department may notify the proper licensing authority of any other state in which the person whose license was suspended or revoked was also licensed of the suspension or revocation.

6. Any person, organization, association or corporation who reports or provides information to the department pursuant to the provisions of sections 190.100 to 190.245 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

7. The department of health and senior services may suspend any certificate, permit or license required pursuant to sections 190.100 to 190.245 simultaneously with the filing of the complaint with the administrative hearing commission as set forth in subsection 2 of this section, if the department finds that there is an imminent threat to the public health. The notice of suspension shall include the basis of the suspension and notice of the right to appeal such suspension. The licensee may appeal the decision to suspend the license, certificate or permit to the department. The appeal shall be filed within ten days from the date of the filing of the complaint. A hearing shall be conducted by the department within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

190.171. AGGRIEVED PARTY MAY SEEK REVIEW BY ADMINISTRATIVE HEARING COMMISSION. — Any person aggrieved by an official action of the department of health and senior services affecting the licensed status of a person [under] **pursuant to** the provisions of sections 190.001 to 190.245 **and sections 190.525 to 190.537**, including the refusal to grant, the grant, the revocation, the suspension, or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo, and it shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department of health and senior services or the department of social services.

190.172. SETTLEMENT AGREEMENTS PERMITTED, WHEN — WRITTEN IMPACT STATEMENT MAY BE SUBMITTED TO ADMINISTRATIVE HEARING COMMISSION. — **Notwithstanding the provisions of subdivision (3) of subsection 3 of section 621.045, RSMo, to the contrary, if no contested case has been filed against the licensee, the agency shall submit a copy of the settlement agreement signed by all of the parties within fifteen days after signature to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee. Any person who is directly harmed by the specific conduct for which the discipline is sought may submit a written impact statement to the administrative hearing commission for consideration in connection with the commission's review of the settlement agreement.**

190.175. RECORDS TO BE MAINTAINED BY LICENSEE. — 1. Each ambulance service licensee or emergency medical response agency licensee shall maintain accurate records, which contain information concerning the care and, if applicable, the transportation of each patient.

2. Records will be retained by the ambulance service licensees and emergency medical response agency licensees for five years, readily available for inspection by the department, notwithstanding transfer, sale or discontinuance of the ambulance services or business.

3. [An ambulance] **A patient care** report, approved by the department, shall be completed for each ambulance run on which are entered pertinent remarks by the emergency medical technician, **registered nurse or physician** and such other items as specified by rules promulgated by the department.

4. **A written or electronic patient care document shall be completed and given to the ambulance service personnel by the health care facility when a patient is transferred between health care facilities. Such patient care record shall contain such information pertinent to the continued care of the patient as well as the health and safety of the ambulance service personnel during the transport. Nothing in this section shall be construed as to limit the reporting requirements established in federal law relating to the transfer of patients between health care facilities.**

5. Such records shall be available for inspection by the department at any reasonable time during business hours.

190.185. RULES AND REGULATIONS, DEPARTMENT TO ADOPT — PROCEDURE. — The department shall adopt, amend, promulgate, and enforce such rules, regulations and standards with respect to the provisions of this chapter as may be designed to further the accomplishment of the purpose of this law in promoting state-of-the-art emergency medical services in the interest of public health, safety and welfare. When promulgating such rules and regulations, the department shall consider the recommendations of the state advisory council on emergency medical services. [No] **Any rule or portion of a rule promulgated pursuant to the authority of sections 190.001 to 190.245 or sections 190.525 to 190.537 shall become effective [unless it has been promulgated pursuant to the provisions of chapter 536, RSMo] 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.**

190.196. EMPLOYER TO COMPLY WITH REQUIREMENTS OF LICENSURE — REPORT OF CHARGES FILED AGAINST LICENSEE, WHEN. — 1. No employer shall knowingly employ or permit any employee to perform any services for which a license, certificate or other authorization is required by sections 190.001 to 190.245, or by rules adopted pursuant to sections 190.001 to 190.245, unless and until the person so employed possesses all licenses, certificates or authorizations that are required.

2. Any person or entity that employs or supervises a person's activities as a first responder [or], emergency medical dispatcher, **emergency medical technician-basic, emergency medical technician-paramedic, registered nurse or physician** shall cooperate with the department's efforts to monitor and enforce compliance by those individuals subject to the requirements of sections 190.001 to 190.245.

3. **Any person or entity who employs individuals licensed by the department pursuant to sections 190.001 to 190.245 shall report to the department within seventy-two hours of their having knowledge of any charges filed against a licensee in their employ for possible criminal action involving the following felony offenses:**

- (1) **Child abuse or sexual abuse of a child;**

(2) Crimes of violence; or

(3) Rape or sexual abuse.

4. Any licensee who has charges filed against him or her for the felony offenses in subsection 3 of this section shall report such an occurrence to the department within seventy-two hours of the charges being filed.

5. The department will monitor these reports for possible licensure action authorized pursuant to section 190.165.

190.246. EPINEPHRINE AUTOINJECTOR, POSSESSION AND USE LIMITATIONS — DEFINITIONS — USE OF DEVICE CONSIDERED FIRST AID — VIOLATIONS, PENALTY. — 1. As used in this section, the following terms shall mean:

(1) "Eligible person, firm, organization or other entity", an ambulance service or emergency medical response agency, a certified first responder, emergency medical technical-basic or emergency medical technician paramedic who is employed by, or an enrolled member, person, firm, organization or entity designated by, rule of the department of health and senior services in consultation with other appropriate agencies. All such eligible persons, firms, organizations or other entities shall be subject to the rules promulgated by the director of the department of health and senior services;

(2) "Emergency health care provider":

(a) A physician licensed pursuant to chapter 334, RSMo, with knowledge and experience in the delivery of emergency care; or

(b) A hospital licensed pursuant to chapter 197, RSMo, that provides emergency care.

2. Possession and use of epinephrine auto-injector devices shall be limited as follows:

(1) No person shall use an epinephrine auto-injector device unless such person has successfully completed a training course in the use of epinephrine auto-injector devices approved by the director of the department of health and senior services. Nothing in this section shall prohibit the use of an epinephrine auto-injector device:

(a) By a health care professional licensed or certified by this state who is acting within the scope of his or her practice; or

(b) By a person acting pursuant to a lawful prescription;

(2) Every person, firm, organization and entity authorized to possess and use epinephrine auto-injector devices pursuant to this section shall use, maintain and dispose of such devices in accordance with the rules of the department;

(3) Every use of an epinephrine auto-injector device pursuant to this section shall immediately be reported to the emergency health care provider.

3. (1) Use of an epinephrine auto-injector device pursuant to this section shall be considered first aid or emergency treatment for the purpose of any law relating to liability.

(2) Purchase, acquisition, possession or use of an epinephrine auto-injector device pursuant to this section shall not constitute the unlawful practice of medicine or the unlawful practice of a profession.

(3) Any person otherwise authorized to sell or provide an epinephrine auto-injector device may sell or provide it to a person authorized to possess it pursuant to this section.

4. Any person, firm, organization or entity that violates the provisions of this section is guilty of a class B misdemeanor.

190.248. INVESTIGATIONS OF ALLEGATIONS OF VIOLATIONS, COMPLETED WHEN — ACCESS TO RECORDS. — 1. All investigations conducted in response to allegations of violations of sections 190.001 to 190.245 shall be completed within six months of receipt of the allegation.

2. In the course of an investigation the department shall have access to all records directly related to the alleged violations from persons or entities licensed pursuant to this chapter or chapter 197 or 198, RSMo.

3. Any department investigations that involve other administrative or law enforcement agencies shall be completed within six months of notification and final determination by such administrative or law enforcement agencies.

190.525. DEFINITIONS. — As used in sections 190.525 to 190.537, the following terms mean:

- (1) "Department", the department of health and senior services;
- (2) "Director", the director of the department of health and senior services or the director's duly authorized representative;
- (3) "Passenger", an individual needing transportation in a supine position who does not require medical monitoring, observation, aid, care or treatment during transportation, with the exception of self-administered oxygen as ordered by a physician during transportation;
- (4) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise incapacitated or helpless, and who may require medical monitoring, medical observation, aid, care or treatment during transportation, with the exception of self-administered oxygen as ordered by a physician;
- (5) "Person", any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, public trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user or provider;
- (6) "Stretcher van", any vehicle other than an ambulance designed and equipped to transport passengers in a supine position. No such vehicle shall be used to provide medical services;
- (7) "Stretcher van service", any person or agency that provides stretcher van transportation to passengers who are confined to stretchers and whose conditions are such that they do not need and are not likely to need medical attention during transportation.

190.528. LICENSE REQUIRED — POLITICAL SUBDIVISIONS NOT PRECLUDED FROM GOVERNING OPERATION OF SERVICE OR ENFORCING ORDINANCES — RESPONSIBILITIES AND RESTRICTIONS ON OPERATION OF STRETCHER VAN SERVICES — RULES. — 1. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of passengers by stretcher van upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for a stretcher van service issued pursuant to the provisions of sections 190.525 to 190.537 notwithstanding any provisions of chapter 390 or 622, RSMo, to the contrary.

2. Subsection 1 of this section shall not preclude any political subdivision that is authorized to operate a licensed ambulance service from adopting any law, ordinance or regulation governing the operation of stretcher vans that is at least as strict as the minimum state standards, and no such regulations or ordinances shall prohibit stretcher van services that were legally picking up passengers within a political subdivision prior to January 1, 2002, from continuing to operate within that political subdivision and no political subdivision which did not regulate or prohibit stretcher van services as of January 1, 2002, shall implement unreasonable regulations or ordinances to prevent the establishment and operation of such services.

3. In any county with a charter form of government and with more than one million inhabitants, the governing body of the county shall set reasonable standards for all stretcher van services which shall comply with subsection 2 of this section. All such

stretcher van services must be licensed by the department. The governing body of such county shall not prohibit a licensed stretcher van service from operating in the county, as long as the stretcher van service meets county standards.

4. Nothing shall preclude the enforcement of any laws, ordinances or regulations of any political subdivision authorized to operate a licensed ambulance service that were in effect prior to August 28, 2001.

5. Stretcher van services may transport passengers.

6. A stretcher van shall be staffed by at least two individuals when transporting passengers.

7. The crew of the stretcher van is required to immediately contact the appropriate ground ambulance service if a passenger's condition deteriorates.

8. Stretcher van services shall not transport patients, persons currently admitted to a hospital or persons being transported to a hospital for admission or emergency treatment.

9. The department of health and senior services shall promulgate regulations, including but not limited to adequate insurance, on-board equipment, vehicle staffing, vehicle maintenance, vehicle specifications, vehicle communications, passenger safety and records and reports.

10. The department of health and senior services shall issue service licenses for a period of no more than five years for each service meeting the established rules.

11. Application for a stretcher van license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.525 to 190.537. The application form shall contain such information as the department deems necessary to make a determination as to whether the stretcher van agency meets all the requirements of sections 190.525 to 190.537 and rules promulgated pursuant to sections 190.525 to 190.537. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

12. Upon the sale or transfer of any stretcher van service ownership, the owner of the stretcher van service shall notify the department of the change in ownership within thirty days prior to the sale or transfer. The department shall conduct an inspection of the stretcher van service to verify compliance with the licensure standards of sections 190.525 to 190.537.

13. Ambulance services licensed pursuant to this chapter or any rules promulgated by the department of health and senior services pursuant to this chapter may provide stretcher van and wheel chair transportation services pursuant to sections 190.525 to 190.537.

14. 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.

190.531. REFUSAL TO ISSUE OR DENIAL OF RENEWAL OF LICENSES PERMITTED — COMPLAINT PROCEDURE — RULES — IMMUNITY FROM LIABILITY, WHEN — SUSPENSION OF LICENSE, WHEN. — 1. The department may refuse to issue or deny renewal of any license required pursuant to sections 190.525 to 190.537 for failure to comply with the provisions of sections 190.525 to 190.537 or any lawful regulations promulgated by the department to implement the provisions of sections 190.525 to 190.537. The department 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 department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 190.525 to 190.537 or any person who has failed to renew or has surrendered his or her license for failure to comply with the provisions of sections 190.525 to 190.537 or any lawful regulations promulgated by the department to implement such sections. Those regulations shall be limited to the following:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any activity licensed or regulated by sections 190.525 to 190.537;

(2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any activity licensed or regulated pursuant to sections 190.525 to 190.537, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to sections 190.525 to 190.537 or in obtaining permission to take any examination given or required pursuant to sections 190.537 to 190.540;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any activity licensed or regulated by sections 190.525 to 190.537;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 190.525 to 190.537, or of any lawful rule or regulation adopted by the department pursuant to sections 190.525 to 190.537;

(7) Impersonation of any person holding a license or allowing any person to use his or her license;

(8) Disciplinary action against the holder of a license or other right to practice any activity regulated by sections 190.525 to 190.537 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) For an individual, being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Issuance of a license based upon a material mistake of fact;

(11) Violation of any professional trust or confidence;

(12) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(14) Refusal of any applicant or licensee, to cooperate with the department of health and senior services during any investigation;

(15) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public;

(16) Repeated negligence in the performance of the functions or duties of any activity licensed by this chapter.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, as provided in subsection 2 of this

section, for disciplinary action are met, the department may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department 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.

4. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department after compliance with all the requirements of sections 190.525 to 190.537 relative to the licensing of an applicant for the first time.

5. The department may notify the proper licensing authority of any other state in which the person whose license was suspended or revoked was also licensed, of the suspension or revocation.

6. Any person, organization, association or corporation who reports or provides information to the department pursuant to the provisions of sections 190.525 to 190.537 and who does so in good faith and without negligence shall not be subject to an action for civil damages as a result thereof.

7. The department of health and senior services may suspend any license required pursuant to sections 190.525 to 190.537 simultaneously with the filing of the complaint with the administrative hearing commission as set forth in subsection 2 of this section, if the department finds that there is an imminent threat to the public health. The notice of suspension shall include the basis of the suspension and notice of the right to appeal such suspension. The licensee may appeal the decision to suspend the license to the department. The appeal shall be filed within ten days from the date of the filing of the complaint. A hearing shall be conducted by the department within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

190.534. VIOLATIONS, PENALTY — ATTORNEY GENERAL TO HAVE CONCURRENT JURISDICTION. — 1. Any person violating, or failing to comply with, the provisions of section 190.525 to 190.537 is guilty of a class B misdemeanor.

2. Each day that any violation of, or failure to comply with, sections 190.525 to 190.537 is committed or permitted to continue shall constitute a separate and distinct offense, and shall be punishable as a separate offense pursuant to this section; but the court may, in appropriate cases, stay the cumulation of penalties.

3. The attorney general shall have concurrent jurisdiction with any and all prosecuting attorneys to prosecute persons in violation of sections 190.525 to 190.537, and the attorney general or prosecuting attorney may institute injunctive proceedings against any person operating in violation of sections 190.525 to 190.537.

190.537. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to the authority of sections 190.525 to 190.537 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.

191.630. DEFINITIONS. — As used in sections 191.630 and 191.631, the following terms mean:

(1) "Care provider", a person who is employed as an emergency medical care provider, firefighter, or police officer;

(2) "Contagious or infectious disease", hepatitis in any form and any other communicable disease as defined in section 192.800, RSMo, except AIDS or HIV infection as defined in section 191.650, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department, in accordance with guidelines of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(3) "Department", the Missouri department of health and senior services;

(4) "Emergency medical care provider", a licensed or certified person trained to provide emergency and nonemergency medical care as a first responder, EMT-B, or EMT-P as defined in section 190.100, RSMo, or other certification or licensure levels adopted by rule of the department;

(5) "Exposure", a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties;

(6) "HIV", the same meaning as defined in section 191.650;

(7) "Hospital", the same meaning as defined in section 197.020, RSMo.

191.631. TESTING FOR DISEASE, CONSENT DEEMED GIVEN, WHEN — HOSPITAL TO CONDUCT TESTING, WRITTEN POLICIES AND PROCEDURES REQUIRED — NOTIFICATION FOR CONFIRMED EXPOSURE — LIMITATIONS ON TESTING AND DUTIES OF HOSPITALS — RULES.

— 1. (1) Notwithstanding any other law to the contrary, if a care provider sustains an exposure from a person while rendering emergency health care services, the person to whom the care provider was exposed is deemed to consent to a test to determine if the person has a contagious or infectious disease and is deemed to consent to notification of the care provider of the results of the test, upon submission of an exposure report by the care provider to the hospital where the person is delivered by the care provider.

(2) The hospital where the person is delivered shall conduct the test. The sample and test results shall only be identified by a number and shall not otherwise identify the person tested.

(3) A hospital shall have written policies and procedures for notification of a care provider pursuant to this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be disclosed to the person tested. The designated representative shall inform the hospital of those parties who receive the notification, and following receipt of such information and upon request of the person tested, the hospital shall inform the person of the parties to whom notification was provided.

2. If a person tested is diagnosed or confirmed as having a contagious or infectious disease pursuant to this section, the hospital shall notify the care provider or the designated representative of the care provider who shall then notify the care provider.

3. The notification to the care provider shall advise the care provider of possible exposure to a particular contagious or infectious disease and recommend that the care provider seek medical attention. The notification shall be provided as soon as is reasonably possible following determination that the individual has a contagious or infectious disease. The notification shall not include the name of the person tested for the contagious or infectious disease unless the person consents. If the care provider who sustained an exposure determines the identity of the person diagnosed or confirmed as having a contagious or infectious disease, the identity of the person shall be confidential information and shall not be disclosed by the care provider to any other individual unless a specific written release obtained by the person diagnosed with or confirmed as having a contagious or infectious disease.

4. This section does not require or permit, unless otherwise provided, a hospital to administer a test for the express purpose of determining the presence of a contagious or

infectious disease; except that testing may be performed if the person consents and if the requirements of this section are satisfied.

5. This section does not preclude a hospital from providing notification to a care provider under circumstances in which the hospital's policy provides for notification of the hospital's own employees of exposure to a contagious or infectious disease that is not life-threatening if the notice does not reveal a patient's name, unless the patient consents.

6. A hospital participating in good faith in complying with the provisions of this section is immune from any liability, civil or criminal, which may otherwise be incurred or imposed.

7. A hospital's duty of notification pursuant to this section is not continuing but is limited to diagnosis of a contagious or infectious disease made in the course of admission, care, and treatment following the rendering of health care services to which notification pursuant to this section applies.

8. A hospital that performs a test in compliance with this section or that fails to perform a test authorized pursuant to this section is immune from any liability, civil or criminal, which may otherwise be incurred or imposed.

9. A hospital has no duty to perform the test authorized.

10. The department shall adopt rules to implement this section. The department may determine by rule the contagious or infectious diseases for which testing is reasonable and appropriate and which may be administered pursuant to this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

11. The employer of a care provider who sustained an exposure pursuant to this section shall pay the costs of testing for the person who is the source of the exposure and of the testing of the care provider if the exposure was sustained during the course of employment.

321.130. DIRECTORS, QUALIFICATIONS — CANDIDATE FILING FEE, OATH. — 1. A person, to be qualified to serve as a director, shall be a voter of the district at least two years [prior to his] **before the** election or appointment and be over the age of twenty-five years; except as provided in subsections 2 and 3 of this section. Nominations and declarations of candidacy shall be filed at the headquarters of the fire protection district by paying a ten dollar filing fee and filing a statement under oath that such person possesses the required qualifications.

2. In any fire protection district located in more than one county one of which is a first class county without a charter form of government having a population of more than one hundred ninety-eight thousand and not adjoining any other first class county or located wholly within a first class county as described herein, a resident shall have been a resident of the district for more than one year to be qualified to serve as a director.

3. In any fire protection district located in a county of the third or fourth classification, a person to be qualified to serve as a director shall be over the age of twenty-five years and shall be a voter of the [county in which the] district [is located] for more than two years [prior to his] **before the** election or appointment, except that for the first board of directors in such district, a person need only be a voter of the [county in which the] district [is located] for one year [prior to his] **before the** election or appointment.

4. A person desiring to become a candidate for the first board of directors of the proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and shall file with the election authority a statement under oath that [he] **such person** possesses all of the qualifications set out in this chapter for a director of a fire protection district. Thereafter, such candidate shall have [his] **the candidate's** name placed on the ballot as a candidate for director.

321.180. TREASURER'S DUTIES — FILE BOND — MAKE ANNUAL FINANCIAL STATEMENT. — The treasurer shall keep strict and accurate accounts of all money received by

and disbursed for and on behalf of the district in permanent records. He shall file with the clerk of the court, at the expense of the district, a corporate fidelity bond in an amount to be determined by the board for not less than five thousand dollars, conditioned on the faithful performance of the duties of his office. He shall file in the office of the county clerk of each county in which all or part of the district lies a detailed financial statement for the preceding fiscal year of the district on behalf of the board, on or before April first of the following year. [The fiscal year of the board shall be the same as the calendar year, beginning January first of each year and ending December thirty-first of the same year.]

321.552. SALES TAX AUTHORIZED IN CERTAIN COUNTIES FOR AMBULANCE AND FIRE PROTECTION — BALLOT LANGUAGE — SPECIAL TRUST FUND ESTABLISHED — REFUNDS AUTHORIZED. — 1. Except in any county of the first classification with over two hundred thousand inhabitants, or any county of the first classification without a charter form of government and with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; or any county of the first classification without a charter form of government and with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants; or any county with a charter form of government with over one million inhabitants; or any county with a charter form of government with over two hundred eighty thousand inhabitants but less than three hundred thousand inhabitants, the governing body of any ambulance or fire protection district may impose a sales tax in an amount up to one-half of one percent on all retail sales made in such ambulance or fire protection district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, provided that such sales tax shall be accompanied by a reduction in the district's tax rate as defined in section 137.073, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed pursuant to the provisions of this section shall be effective unless the governing body of the ambulance or fire protection district submits to the voters of such ambulance or fire protection district, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the ambulance or fire protection district to impose a tax pursuant to this section.

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

"Shall (insert name of ambulance or fire protection district) impose a sales tax of (insert amount up to one-half) of one percent for the purpose of providing revenues for the operation of the (insert name of ambulance or fire protection district) and the total property tax levy on properties in the (insert name of the ambulance or fire protection district) shall be reduced annually by an amount which reduces property tax revenues by an amount equal to fifty percent of the previous year's revenue collected from this sales tax?

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".

3. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax authorized in this section shall be in effect and the governing body of the ambulance or fire protection district shall lower the level of its tax rate by an amount which reduces property tax revenues by an amount equal to fifty percent of the amount of sales tax collected in the preceding year. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the ambulance or fire protection district shall not impose the sales tax authorized in this section unless and until the governing body of such ambulance or fire protection district resubmits a proposal to authorize the governing body of the ambulance or fire

protection district to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

4. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in a special trust fund, and be used solely for the purposes specified in the proposal submitted pursuant to this section for so long as the tax shall remain in effect.

5. All sales taxes collected by the director of revenue pursuant to this section, 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 "Ambulance or Fire Protection District Sales Tax Trust Fund". The moneys in the ambulance or fire protection 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 and the amount collected in each district imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county and to 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 governing body of the district which levied the tax; such funds shall be deposited with the board treasurer of each such district.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credit any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. If any district abolishes the tax, the district 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 of each instance of any amount refunded or any check redeemed from receipts due the district.

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

321.554. ADJUSTMENT IN TOTAL OPERATING LEVY OF DISTRICT BASED ON SALES TAX REVENUE — GENERAL REASSESSMENT, EFFECT OF. — 1. When the revenue from the ambulance or fire protection district sales tax is collected for distribution pursuant to section 321.552, the board of the ambulance or fire protection district, after determining its budget for the year pursuant to section 67.010, RSMo, and the rate of levy needed to produce the required revenue and after making any other adjustments to the levy that may be required by any other law, shall reduce the total operating levy of the district in an amount sufficient to decrease the revenue it would have received therefrom by an amount equal to fifty percent of the previous fiscal year's sales tax receipts. Loss of revenue, due to a decrease in the assessed valuation of real property located within the ambulance or fire protection district as a result of general reassessment, and from state-assessed railroad and utility distributable property based upon the previous fiscal year's receipts shall be considered in lowering the rate of levy to comply with this section in the year of general reassessment and in each subsequent year. In the event that in the immediately preceding year the ambulance or fire protection district actually received more or less sales tax revenue than estimated, the ambulance or fire protection district board may adjust its operating levy for the current year to reflect such increase or decrease. The director of revenue shall certify the amount payable from the ambulance

or fire protection district sales tax trust fund to the general revenue fund to the state treasurer.

2. Except that, in the first year in which any sales tax is collected pursuant to section 321.552, the collector shall not reduce the tax rate as defined in section 137.073, RSMo.

3. In a year of general reassessment, as defined by section 137.073, RSMo, or assessment maintenance as defined by section 137.115, RSMo, in which an ambulance or fire protection district in reliance upon the information then available to it relating to the total assessed valuation of such ambulance or fire protection district revises its property tax levy pursuant to section 137.073 or 137.115, RSMo, and it is subsequently determined by 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 assessed valuations that the assessed valuation of such ambulance or fire protection district has been changed, and but for such change the ambulance or fire protection district would have adopted a different levy on the date of its original action, then the ambulance or fire protection district may adjust its levy to an amount to reflect such change in assessed valuation, including, if necessary, a change in the levy reduction required by this section to the amount it would have levied had the correct assessed valuation been known to it on the date of its original action, provided:

(1) The ambulance or fire protection district first levies the maximum levy allowed without a vote of the people by article X, section 11(b) of the constitution; and

(2) The ambulance or fire protection district first adopts the tax rate ceiling otherwise authorized by other laws of this state; and

(3) The levy adjustment or reduction may include a one-time correction to recoup lost revenues the ambulance or fire protection district was entitled to receive during the prior year.

321.556. REPEAL OF SALES TAX, PROCEDURE — BALLOT LANGUAGE. — 1. The governing body of any ambulance or fire protection district, when presented with a petition signed by at least twenty percent of the registered voters in the ambulance or fire protection district that voted in the last gubernatorial election, calling for an election to repeal the tax pursuant to section 321.552, shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

"Shall (insert name of ambulance or fire protection district) repeal the (insert amount up to one-half) of one percent sales tax now in effect in the (insert name of ambulance or fire protection district) and reestablish the property tax levy in the district to the rate in existence prior to the enactment of the sales tax?"

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".

2. If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved.

SECTION 1. AMBULANCE SERVICES TO HAVE SAME STATUTORY LIEN RIGHTS AS HOSPITALS — RECOVERY OF LIEN, NET PROCEEDS TO BE SHARED WITH PATIENT, WHEN — RELEASE OF CLAIMANT FROM LIABILITY, WHEN. — 1. As used in this section, the following terms mean:

- (1) "Claim", a claim of a patient for:
 - (a) Damages from a tort-feasor; or
 - (b) Benefits from an insurance carrier;

(2) "Insurance carrier", any person, firm, corporation, association or aggregation of persons conducting an insurance business pursuant to chapter 375, 376, 377, 378, 379, 380, 381, or 383, RSMo;

(3) "Patient", any person to whom an ambulance service delivers treatment, care, or transportation for sickness or injury caused by a tort-feasor from whom such person seeks damages or any insurance carrier which has insured such tort-feasor.

2. Ambulance services shall have the same rights granted to hospitals in sections 430.230 to 430.250, RSMo.

3. If the liens of such ambulance services or hospitals exceed fifty percent of the amount due the patient, every ambulance service or hospital giving notice of its lien, as aforesaid, shall share in up to fifty percent of the net proceeds due the patient, in the proportion that each claim bears to the total amount of all other liens of ambulance services or hospitals. "Net proceeds", as used in this section, means the amount remaining after the payment of contractual attorney fees, if any, and other expenses of recovery.

4. In administering the lien of the ambulance service, the insurance carrier may pay the amount due secured by the lien of the ambulance service directly, if the claimant authorizes it and does not challenge the amount of the customary charges or that the treatment provided was for injuries caused by the tort-feasor.

5. Any ambulance service electing to receive benefits hereunder releases the claimant from further liability on the cost of the services and treatment provided to that point in time.

[190.044. AMBULANCE SERVICE TAX FROM ONE DISTRICT ONLY (THIRD CLASS COUNTIES), PETITION. — 1. No taxpayer shall be required to pay property taxes for ground ambulance service to both an ambulance district and a fire protection district or two ambulance districts which operate a ground ambulance service, unless reaffirmed and authorized pursuant to this section. In the event that a taxpayer in a third class county is paying taxes to both entities to provide ground ambulance service, any taxpayer residing in the area subject to the double tax may file a petition with the county clerk in which the area, or greatest part thereof, is situated requesting that the double tax be eliminated and that the area only pay a tax to one entity.

2. Upon receipt of such petition, the county clerk shall determine the area taxed by two such entities and place the question before the voters of such area at the next state or municipal election. The petition shall request that the following question be submitted to the voters residing within the geographic limits of the area:

The (description of area) is currently paying a tax to provide ambulance service to the (name of entity created first) and the (name of entity created second).

As a result, choose only one of the following districts to provide ambulance service and taxation:

..... (name of entity created first)

..... (name of entity created second).

3. The entity receiving the most votes shall be declared as the single taxing entity for the area in question. The taxpayers within the area shall thereafter only pay one tax to the single taxing entity following a three-year period, over which the tax rate levied and collected shall be decreased by one-third each year until such tax is no longer levied or collected by the entity not chosen to provide service.

4. All costs incurred by the county clerk as a result of this section, including election costs, shall be paid by the entity not chosen to provide service.

5. The boundaries and service area of the entities providing ambulance service will reflect the change as determined by the election.]

Approved July 11, 2002

SB 1109 [SB 1109]

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

Requires Department of Revenue to issue information regarding driving while intoxicated to first time licensees.

AN ACT to amend chapter 302, RSMo, by adding thereto one new section relating to drivers' licenses.

SECTION

A. Enacting clause.

302.176. Information on dangers of operating a motor vehicle in intoxicated or drugged state, all first-time licensees to receive.

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 302.176, to read as follows:

302.176. INFORMATION ON DANGERS OF OPERATING A MOTOR VEHICLE IN INTOXICATED OR DRUGGED STATE, ALL FIRST-TIME LICENSEES TO RECEIVE. — **Upon successful completion of the requirements of this chapter to obtain a driver's license, all first-time licensees in this state shall receive information from the department of revenue relating to the dangers of operating a motor vehicle while in an intoxicated or drugged condition.**

Approved July 3, 2002

SB 1113 [HCS SCS SB 1113]

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

Revises certain coroner's compensation and laws related to coroner's inquests.

AN ACT to repeal sections 58.260, 58.270, 58.310, 58.330, 58.340 and 58.360, RSMo, relating to coroners, and to enact in lieu thereof six new sections relating to the same subject.

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 death by violence or casualty, being found within his county, [shall] **may** make out his warrant, directed to the sheriff of the county where the dead body is found, requiring him 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 warrant expressed, and to inquire[, upon a view of the body of the person there lying dead,] how and by whom he came to his 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,] **the 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 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 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 died of his 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 summons for witnesses, **and such evidence, documents and materials of substance**, commanding them to come before him to be examined, and to declare their knowledge concerning the matter in question.

58.340. CORONER TO ADMINISTER OATH TO WITNESSES. — He 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

SB 1119 [HCS SB 1119]

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

Relating to security at state-owned or leased buildings.

AN ACT to amend chapter 8, RSMo, by adding thereto one new section relating to security of state owned buildings.

SECTION

- A. Enacting clause.
8.115. Armed security guards for state-owned or leased facilities.

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

SECTION A. ENACTING CLAUSE. — Chapter 8, RSMo, is amended by adding thereto one new section, to be known as section 8.115, to read as follows:

8.115. ARMED SECURITY GUARDS FOR STATE-OWNED OR LEASED FACILITIES. — **Notwithstanding the provisions of chapter 571, RSMo, the office of administration, division of facilities management, is authorized to provide armed security guards at state-owned or leased facilities except at the seat of government and within the county which contains the seat of government, either through qualified persons employed by the office of administration, or through the use of a contract with a properly licensed firm.**

Approved July 1, 2002

SB 1124 [SB 1124]

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 certain property in the City of St. Louis.

AN ACT to authorize the governor to convey certain property in the city of St. Louis.

SECTION

1. Hubert Wheeler State School, conveyance of property by the state to the City of St. Louis.

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

SECTION 1. HUBERT WHEELER STATE SCHOOL, CONVEYANCE OF PROPERTY BY THE STATE TO THE CITY OF ST. LOUIS. — **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 or not a minimum bid shall be required; and whether or not 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.

Approved June 28, 2002

SB 1132 [SCS SB 1132]

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 Recorder of Deeds in the City of St. Louis to be named the local registrar for birth and death records.

AN ACT to repeal section 193.065, RSMo, relating to local registrars, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
 193.065. Local registrars, qualifications, appointment—deputies—duties—recorder of deeds appointed as local registrar (St. Louis City).

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

SECTION A. ENACTING CLAUSE.—Section 193.065, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 193.065, to read as follows:

193.065. LOCAL REGISTRARS, QUALIFICATIONS, APPOINTMENT—DEPUTIES—DUTIES—RECORDER OF DEEDS APPOINTED AS LOCAL REGISTRAR (ST. LOUIS CITY).—The state registrar may appoint local registrars, each of whom shall be a person employed by an official county health agency **except as otherwise herein provided**. Each local registrar shall be authorized under the provisions of section 193.255 and subsection 2 of section 193.265 to issue certifications of death records. A local registrar, with the approval of the state registrar, may appoint deputies **to carry out some or all of the responsibilities of the local registrar as provided in sections 193.005 to 193.325 or the regulations promulgated pursuant thereto**. The local registrars shall immediately report to the state registrar violations of sections 193.005

to 193.325 or the regulations promulgated pursuant thereto. **In any city not within a county, the state registrar shall appoint the recorder of deeds for such city as the local registrar.**

Approved June 28, 2002

SB 1143 [SB 1143]

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

Modifies State Auditor's duties regarding bonds.

AN ACT to repeal section 108.240, RSMo, relating to duties of the state auditor, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

108.240. Bonds to be certified by state auditor — validity — defenses.

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

SECTION A. ENACTING CLAUSE. — Section 108.240, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 108.240, to read as follows:

108.240. BONDS TO BE CERTIFIED BY STATE AUDITOR — VALIDITY — DEFENSES. — 1. Before any general obligation bearer bond or general obligation registered bond, hereafter issued by any county, township, city, town, village or school district or special road district or fire protection district or by virtue of the provisions of chapters 243, 245, 248, and sections 242.010 to 242.690, RSMo, for any purpose whatever, shall obtain validity or be negotiated:

(1) If such bonds are in bearer form, such bonds shall first be presented to the state auditor, [who shall register the same in a book or books, provided for that purpose, in the same manner as state bonds are now registered, and] who, other provisions of law notwithstanding, shall certify by manual or facsimile endorsement of such bonds that all conditions of the laws have been complied with in its issue, if that be the case, and also that the conditions of the contract, under which they were ordered to be issued, have also been complied with and the evidence of that fact shall be filed and preserved by the auditor. The state auditor may endorse bearer bonds with [his] **the auditor's** facsimile signature in lieu of manual signature after filing [his] **the auditor's** manual signature, certified by [him] **the auditor** under oath, with the secretary of state; and

(2) If such bonds are in registered form, the proceedings relating to the issuance of such registered bonds shall first be presented to the state auditor, who shall examine the same and shall issue a certificate that such proceedings comply with all conditions of the laws, if that be the case, and also that the conditions of the contract, under which they were ordered to be issued, have also been complied with, and the evidence of these facts shall be filed and preserved by the auditor. The state auditor shall also [record] **maintain** the following information [in a book or books provided for that purpose, to wit]: the name of the issuer of the bonds; the amount thereof; the maturity dates thereof; the interest rates thereon; and the provisions with respect to prepayment, if any.

2. Such bearer bonds after receiving the said certificate of the auditor as herein provided and such registered bonds after the issuance of the said certificate as herein provided shall

thereafter be held in every action, suit or proceeding in which their validity is, or may be, brought into question, prima facie, valid and binding obligations, and in every action brought to enforce collection of such bonds, the certificate of such auditor, or a duly certified copy thereof, shall be admitted and received in evidence of the validity of such bonds, together with the coupons thereto attached if any; provided, the only defense which can be offered against the validity of such bonds shall be for forgery or fraud. But this section shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the constitution, or contrary to its provisions, but all such bonds shall, to the extent of such excess, be held void; and provided further, that the remedy of injunction shall also lie at the instance of any taxpayer of the respective county, city, town, village, township or school district or special road district or fire protection district or drainage district or levy district to prevent the registration of any bonds, alleged to be illegally issued or funded.

Approved July 12, 2002

SB 1151 [SCS SB 1151]

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 section 94.875, RSMo, relating to tourism tax trust funds in certain cities, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

94.875. Tourism tax trust fund established, purpose — taxes to be deposited in fund — distribution — election required to impose tax.

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

SECTION A. ENACTING CLAUSE. — Section 94.875, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 94.875, to read as follows:

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 in this section.** 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.

Approved June 12, 2002

SB 1163 [SCS SB 1163]

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

Clarifies provisions in the air emissions banking and trading program.

AN ACT to repeal section 643.220, RSMo, relating to the air emissions banking and trading program, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
643.220. Missouri emissions banking and trading program established by commission — promulgation of rules.

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

SECTION A. ENACTING CLAUSE. — Section 643.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.220, to read as follows:

643.220. MISSOURI EMISSIONS BANKING AND TRADING PROGRAM ESTABLISHED BY COMMISSION — PROMULGATION OF RULES. — 1. The commission shall promulgate rules establishing a "Missouri Air Emissions Banking and Trading Program" to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency pursuant to the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended. In promulgating such rules, the commission may consider, but not be limited to, inclusion of provisions concerning the definition and transfer of air emissions reduction credits or allowances between mobile sources, area sources and stationary sources, the role of offsets in emissions trading, interstate and regional emissions trading and the mechanisms necessary to facilitate emissions trading and banking, including consideration of the authority of other contiguous states.

2. The program shall:

- (1) Not include any provisions prohibited by federal law;
- (2) Be applicable to criteria pollutants and their precursors as defined by the federal Clean Air Act, as amended;
- (3) Not allow banked or traded emissions credits to be used to meet federal Clean Air Act requirements for hazardous air pollutant standards pursuant to Section 112 of the federal Clean Air Act;
- (4) Allow the banking and trading of criteria pollutants that are also hazardous air pollutants, as defined in Section 112 of the federal Clean Air Act, to the extent that verifiable emissions reductions achieved are in excess of those required to meet hazardous air pollutant emissions standards promulgated pursuant to Section 112 of the federal Clean Air Act;
- (5) Authorize the direct trading of air emission reduction credits or allowances between nongovernmental parties, subject to the approval of the department;

(6) Allow net air emission reductions from federally approved permit conditions to be transferred to other sources for use as offsets required by the federal Clean Air Act in nonattainment areas to allow construction of new emission sources; and

(7) Not allow banking of air emission reductions unless they are in excess of reductions required by state or federal regulations or implementation plans.

3. The department shall verify, certify or otherwise approve the amount of an air emissions reduction credit before such credit is banked. Banked credits may be used, traded, sold or otherwise expended within the same nonattainment area, maintenance area or air quality modeling domain in which the air emissions reduction occurred, provided that there will be no resulting adverse impact of air quality.

4. To be creditable for deposit in the Missouri air emissions bank, a reduction in air emissions shall be permanent, quantifiable and federally approved.

5. To be tradeable between air emission sources, air emission reduction credits shall be based on air emission reductions that occur after August 28, 2001, **or shall be credits that exist in the current air emissions bank.**

6. In nonattainment areas, the bank of criteria pollutants and their precursors shall be reduced by three percent annually for as long as the area is classified as a nonattainment area.

Approved June 13, 2002

SB 1168 [SB 1168]

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

Authorizes conveyances of state property in Laclede and Cole counties.

AN ACT to authorize the conveyance of property owned by the state.

SECTION

1. Clear zone easement granted to city of Lebanon.
2. Conveyance of Cole County property to General Services Administration or the Missouri development finance board.

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

SECTION 1. CLEAR ZONE EASEMENT GRANTED TO CITY OF LEBANON. — 1. The governor is hereby authorized to grant a clear zone easement for the airspace above property managed by the National Guard to the city of Lebanon, Missouri. The tract of land situated in the Southwest Quarter of Section 23, Township 34, Range 16 of the Fifth Principal Meridian, County of Laclede, State of Missouri, more particularly described as follows:

All of the east 225.0 feet of that part of the S.W. 1/4 S.E. 1/4 Section 23, Township 34, Range 16, Laclede County, Missouri lying north of Fremont Road.

The clear zone easement shall prohibit the state from causing, or permitting the causing of, an obstruction in the clear zone situated over the above-described land, including the erection of any structure or growth of any tree, or other object.

The clear zone shall consist of three circular concentric sections. The innermost first section is circular and originates at the existing ground elevation at the base of the Automated Weather Observation System (AWOS) tower and extends vertically upward to infinity with a radius of one hundred feet. The second section begins at fifteen feet

above the ground surface at the base of the AWOS tower and extends vertically upward to infinity with an inside radius of one hundred feet and an outside radius of five hundred feet. The third section begins at forty feet above the ground surface at the AWOS tower and extends vertically upward to infinity with an inside radius of five hundred feet and an outside radius of one thousand feet.

2. A termination date for the easement shall be as negotiated by the parties.
3. Consideration for the conveyance of the easement shall be one dollar.
4. The attorney general shall approve as to form the instruments of conveyance.

SECTION 2. CONVEYANCE OF COLE COUNTY PROPERTY TO 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 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.

Approved June 21, 2002

SB 1182 [SCS SB 1182]

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

Modifies the law relating to health care professionals under the State Board of Registration for the Healing Arts.

AN ACT to repeal section 334.104, RSMo, relating to the state board of registration for the healing arts, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 334.002. Inactive license status granted, when.
- 334.104. Collaborative practice arrangements, form, delegation of authority — rules, approval, restrictions — disciplinary actions.

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

SECTION A. ENACTING CLAUSE. — Section 334.104, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 334.002 and 334.104, to read as follows:

334.002. INACTIVE LICENSE STATUS GRANTED, WHEN. — **1. Notwithstanding any law to the contrary, any person licensed pursuant to this chapter may apply to the state board of registration for the healing arts for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person whose license is inactive or who has discontinued his or her practice because of retirement shall not practice his or her profession within this state, but shall be allowed to practice his or her profession on himself or herself or on his or her immediate family, however, such person shall not be allowed to prescribe controlled substances. Such person may continue to use the title of his or her profession or the initials of his or her profession after such person's name.**

2. During the period of inactive status, the licensee shall not be required to comply with the board's minimum requirements for continuing education.

3. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of his or her intention, paying the appropriate fees, and meeting all established requirements of the board as a condition of reinstatement.

4. Any licensee allowing his or her license to become inactive, may within five years of the inactive status return his or her license to active status by notifying the board in advance of such intention, paying the appropriate fees, and meeting all established licensure requirements of the board, excluding the licensing examination, as a condition of reinstatement.

334.104. COLLABORATIVE PRACTICE ARRANGEMENTS, FORM, DELEGATION OF AUTHORITY — RULES, APPROVAL, RESTRICTIONS — DISCIPLINARY ACTIONS. — **1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.**

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice nurse as defined in subdivision (2) of section 335.016, RSMo. Such collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

3. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo.

4. The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for [acts arising out of an agreement, which on or after August 28, 1993, shall be a written agreement, with] **health care services delegated to a registered professional nurse**], a pharmacist or registered physician assistant practicing within the scope of his license or registration] **provided the provisions of this section and the rules promulgated thereunder are satisfied**. Upon the written request of [the] a physician subject to [the] a disciplinary action], the record of any such disciplinary licensure action] imposed as a result of an agreement between a physician and a registered professional nurse or registered physician assistant, whether written or not, prior to August 28, 1993, **all records of such disciplinary licensure action** and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

Approved July 2, 2002

SB 1191 [HS HCS SS#2 SB 1191]

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

In the event of a budgetary emergency, bonds may be issued to be repaid with net tobacco settlement agreement receipts.

AN ACT to repeal section 8.010, RSMo, and to enact in lieu thereof twenty-six new sections relating to the tobacco settlement financing authority act, with an emergency clause.

SECTION

- A. Enacting clause.
- 8.010. Board of public buildings created — powers and duties.
- 8.500. Citation.
- 8.505. Definitions.
- 8.510. Tobacco settlement financing authority created, purpose, restrictions.
- 8.515. Powers of authority not restricted or limited — proceedings, notice or approval not required, when.
- 8.520. Board to exercise powers, membership, meetings, no compensation.
- 8.525. No personal liability for board members, when.
- 8.530. Powers of the board.
- 8.535. Authority to sell or assign state's share of tobacco settlement.
- 8.540. Issuance of bonds authorized, when.
- 8.545. Proceeds of bonds to be deposited in the tobacco securitization settlement trust fund, use of moneys — issuance of bonds, requirements.
- 8.550. Tobacco securitization settlement trust fund established, source of fund moneys, uses — qualified tax-exempt expenditure account and taxable expenditure account authorized.
- 8.552. Authority to determine deposit and withdrawal of moneys.
- 8.555. Exemption from competitive bidding requirements of the state.
- 8.557. Annual report to the general assembly to be submitted, content.
- 8.560. No bankruptcy petition may be filed, when.
- 8.565. Dissolution of authority, when — transfer of assets upon dissolution.
- 8.570. Issuance of bonds by board of public buildings, use of proceeds.
- 8.572. Bond issuance not deemed indebtedness of the state or board of public buildings.
- 8.575. Bond requirements.
- 8.580. Refunding of bonds, when, procedure.
- 8.585. Form details and incidents of bonds to be prescribed by board of public buildings.
- 8.590. Resolution of board of public buildings required for issuance of bonds.
- 8.592. Issuance of notes, maturity dates — transfer of funds to secure notes.
- 8.595. Liberal construction of act.
1. Advisory committee of tobacco securitization established, members, duties.
- B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 8.010, RSMo, is repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 8.010, 8.500, 8.505, 8.510, 8.515, 8.520, 8.525, 8.530, 8.535, 8.540, 8.545, 8.550, 8.552, 8.555, 8.557, 8.560, 8.565, 8.570, 8.572, 8.575, 8.580, 8.585, 8.590, 8.592, 8.595, and 1, to read as follows:

8.010. BOARD OF PUBLIC BUILDINGS CREATED — POWERS AND DUTIES. — 1. The governor, attorney general and lieutenant governor constitute the board of public buildings. The governor is chairman and the lieutenant governor, secretary. **The speaker of the house of representatives and the president pro tempore of the senate shall serve as ex officio members of the board but shall not have the power to vote.** The board shall constitute a body corporate and politic. The board has general supervision and charge of the public property of the state at the seat of government and other duties imposed on it by law.

2. The commissioner of administration shall provide staff support to the board.

8.500. CITATION. — Sections 8.500 to 8.565 shall be known and may be cited as the "Tobacco Settlement Financing Authority Act".

8.505. DEFINITIONS. — As used in sections 8.500 to 8.565, the following terms mean:

- (1) "Authority", the tobacco settlement financing authority created by section 8.510;
- (2) "Board", the governing board of the authority;
- (3) "Bonds", bonds, notes, and other obligations and financing arrangements issued or entered into by the authority pursuant to sections 8.500 to 8.565;

(4) "Master settlement agreement", the master settlement agreement as defined in section 196.1000, RSMo;

(5) "Net proceeds", the amount of proceeds remaining following each sale of bonds which are not required by the authority to establish and fund reserve funds, to fund capitalized interest on the bonds, and to pay the costs of issuance and other expenses and fees directly related to the authorization and issuance of bonds;

(6) "Program plan", the tobacco settlement program to provide funds for budget purposes to fund one-time expenditures, short-term revenue shortfalls, refund a portion of the general obligation indebtedness of the State and capital projects of any kind;

(7) "Sales agreement", any agreement authorized pursuant to sections 8.500 to 8.565 in which the state provides for the sale of a portion of the state's share to the authority;

(8) "State's share", all payments required to be made by tobacco product manufacturers to the state, and the state's rights to receive such payments, under the master settlement agreement;

(9) "Tax-exempt bonds", bonds issued by the authority that are accompanied by a written opinion of bond counsel to the authority that the interest on such bonds is excluded from the gross income of the recipients for federal income tax purposes;

(10) "Taxable bonds", bonds issued by the authority that are not accompanied by a written opinion of bond counsel to the authority that the interest on such bonds is excluded from the gross income of the recipients for federal income tax purposes; and

(11) "Tobacco securitization settlement trust fund", the tobacco securitization settlement trust fund created by section 8.550.

8.510. TOBACCO SETTLEMENT FINANCING AUTHORITY CREATED, PURPOSE, RESTRICTIONS. — 1. There is hereby created the "Tobacco Settlement Financing Authority", which shall constitute a body corporate and politic. The staff of the office of administration shall also serve as staff of the authority under the supervision of the commissioner of administration.

2. The purposes of the authority include all of the following:

(1) To implement and administer the securitization of a portion of the state's share as provided in sections 8.500 to 8.565;

(2) To enter into sales agreements;

(3) To issue bonds and enter into funding options, consistent with sections 8.500 to 8.565, including refunding and refinancing its debt and obligations;

(4) To sell, pledge, or assign, as security or consideration, that a portion of the state's share sold to the authority pursuant to a sales agreement, to provide for and secure the issuance and repayment of its bonds;

(5) To invest funds available under sections 8.500 to 8.565;

(6) To enter into agreements with the state for the distribution of amounts due the state under any sales agreement; and

(7) To refund and refinance the authority's debts and obligations, and to manage its funds, obligations, and investments as necessary and if consistent with its purposes.

3. The authority shall not create any obligation of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitation. The authority shall not undertake any activities other than those required to implement sections 8.500 to 8.565.

4. The authority shall not pledge the credit or taxing power of the state or any political subdivision of the state, or make its debts payable out of any moneys except those of the authority specifically pledged for their payment.

5. The authority shall not pledge or make its debts payable out of the moneys deposited in the tobacco securitization settlement trust fund.

8.515. POWERS OF AUTHORITY NOT RESTRICTED OR LIMITED—PROCEEDINGS, NOTICE OR APPROVAL NOT REQUIRED, WHEN. — Sections 8.500 to 8.565 shall not restrict or limit the powers that the authority has under any other law of the state, but is cumulative as to any such powers. A proceeding, notice, or approval is not required for the creation of the authority or the issuance of bonds, debt obligations or any instrument as security, except as provided in sections 8.500 to 8.565.

8.520. BOARD TO EXERCISE POWERS, MEMBERSHIP, MEETINGS, NO COMPENSATION. — The powers of the authority are vested in and shall be exercised by a board consisting of three members: the governor, the lieutenant governor, and the attorney general. The speaker of the house of representatives and the president pro tempore of the senate shall serve as ex-officio member of the board but shall not have the power to vote. The treasurer of the state may serve as an ex officio member of the authority but shall not have the power to vote. Two members of the board constitute a quorum. The members shall elect a chairperson, vice chairperson, and secretary, annually, and other officers as the members determine necessary. Meetings of the board shall be held at the call of the chairperson or when a majority of the members so request. The members of the board shall not receive compensation by reason of their membership on the board.

8.525. NO PERSONAL LIABILITY FOR BOARD MEMBERS, WHEN. — Members of the board and persons acting on the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under sections 8.500 to 8.565.

8.530. POWERS OF THE BOARD. — The authority has all the general powers to the extent necessary to carry out its purposes and duties and to exercise its specific powers to the extent necessary, including but not limited to all of the following powers:

(1) The power to issue its bonds and to enter into other funding options as provided in sections 8.500 to 8.565;

(2) The power to sue and be sued in its own name;

(3) The power to make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with sections 8.500 to 8.565;

(4) The power to hire and compensate legal counsel, financial advisors, investment bankers, and other persons as necessary to fulfill its purposes, following the solicitation of qualifications for such services and the evaluation thereof by the authority;

(5) The power to invest or deposit moneys of or held by the authority in such deposits or investments as the state may invest, and in obligations of states and their political subdivisions that are rated in one of the two highest rating categories by a nationally recognized bond rating agency;

(6) The power to create funds and accounts necessary to carry out its purposes;

(7) The power to procure insurance, other credit enhancements, and other financing arrangements, and to execute instruments and contracts and to enter into agreements convenient or necessary to facilitate financing arrangements of the authority and to fulfill the purposes of the authority under sections 8.500 to 8.565, including but not limited to such arrangements, instruments, contracts, and agreements as municipal bond insurance, liquidity facilities, forward purchase agreements, interest rate swaps, exchange or cap or floor agreements, and letters of credit;

(8) The power to accept appropriations from public entities for the purpose of securing debt obligations with a maturity of not more than one year issued pursuant to Section 8.545 hereof;

(9) The power to adopt rules, consistent with sections 8.500 to 8.565, as the board determines necessary;

- (10) The power to acquire, own, hold, administer, and dispose of personal property;
- (11) The power to determine, in connection with the issuance of bonds, and subject to the sales agreement, the terms and other details of any financing, and the method of implementation of the financing;
- (12) The power to make all expenditures which are incident and necessary to carry out its purposes and powers; and
- (13) The power to perform any act not inconsistent with federal or state law necessary to carry out the purposes of the authority.

8.535. AUTHORITY TO SELL OR ASSIGN STATE'S SHARE OF TOBACCO SETTLEMENT. —

1. (1) The governor or the governor's designee shall be authorized to sell and assign to the authority, pursuant to one or more sales agreements, not to exceed thirty percent of the state's share to implement sections 8.500 to 8.565; provided, the net proceeds of bonds issued to implement sections 8.500 to 8.565 shall not exceed six hundred million dollars. The attorney general shall assist the governor in the preparation, modification and review of all documentation as may be necessary to effect such a sale and to implement the provisions of sections 8.500 to 8.565.

(2) Any sales agreement shall be consistent with sections 8.500 to 8.565. The terms and conditions of the sale established in such sales agreement may include but are not limited to any of the following:

(a) A requirement that the state enforce and pay the expenses of enforcing the provisions of the master settlement agreement that require payment of the state's share that has been sold to the authority under a sales agreement which obligation shall constitute a material covenant of the state;

(b) A requirement that the state not agree to any amendment of the master settlement agreement that materially and adversely affects the authority's ability to receive the state's share that has been sold to the authority under a sales agreement;

(c) A statement that the net proceeds from the sale of bonds shall be deposited in the tobacco securitization settlement trust fund established under section 8.550 and that in no event shall the amounts in the trust fund be available or be applied for payment of bonds or any claim against the authority or any debt or obligation of the authority; and

(d) An agreement that the effective date of the sale is the date of receipt of the bond proceeds by the authority.

2. Any sales made under this section shall be irrevocable during the time when bonds are outstanding under sections 8.500 to 8.565, and shall be a part of the contractual obligation owed to the bondholders. The sale shall constitute and be treated as a true sale and absolute transfer of the property so transferred and not as a pledge or other security interest for any borrowing. The characterization of such a sale as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the state's share is being sold, or by the state's acquisition or retention of an ownership interest in the residual assets.

3. On or after the effective date of such sale, the state shall not have any right, title, or interest in the portion of the master settlement agreement sold and such portion shall be the property of the authority and not the state, and shall be owned, received, held, and disbursed by the authority or its trustee or assignee, and not the state.

4. On or before the effective date of the sale, the state shall notify the escrow agent or its assignee under the master settlement agreement of the sale and shall instruct the escrow agent or its assignee that subsequent to that date, all payments constituting the portion sold shall be made directly to the authority.

5. The authority shall report to board of public buildings on or before the date of the sale, advising it of the status of the sale, its terms, and conditions.

8.540. ISSUANCE OF BONDS AUTHORIZED, WHEN. — Subject to the receipt of written approval of the board of public buildings, the authority may issue taxable bonds or tax-exempt bonds to provide for the implementation of sections 8.500 to 8.565 and may proceed with a securitization to maximize the transference of benefits and risks associated with the master settlement agreement.

8.545. PROCEEDS OF BONDS TO BE DEPOSITED IN THE TOBACCO SECURITIZATION SETTLEMENT TRUST FUND, USE OF MONEYS —ISSUANCE OF BONDS, REQUIREMENTS. — 1. The net proceeds from bonds issued by the authority shall be deposited in the tobacco securitization settlement trust fund and applied to the governmental purposes provided in section 8.550 hereof. The net proceeds from such bonds may be used to implement sections 8.500 to 8.565 and carry out the program plan. In connection with the issuance of bonds and subject to the terms of the sales agreement, the authority shall determine the terms and other details of the financing and the method of implementation of sections 8.500 to 8.565. Bonds issued pursuant to this section may be secured by a pledge of the authority's interest in any sales agreement and any other sources available to the authority with the exception of moneys in the tobacco securitization settlement trust fund. The authority shall also have the power to issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and shall have the power to issue any other types of bonds, debt obligations, and financing arrangements necessary to fulfill the purposes of sections 8.500 to 8.565, including but not limited to the issuance of debt obligations with a maturity of not more than one year from the date of issue for the purpose of preserving any expenditure of moneys from the state general revenue fund for reimbursement from the proceeds of any bonds to be issued pursuant to sections 8.500 to 8.565. The state may transfer to the authority funds designated in the state's budget for such expenditure for the purpose of securing such debt obligations. Such debt obligations may also be secured by a covenant of the authority to issue bonds under sections 8.500 to 8.565. The purpose for the issuance of such debt obligations and the transfer of such moneys shall be to maximize the utilization of tax-exempt bonds by the authority.

2. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its purposes, the payment of interest on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

3. Bonds issued by the authority are special obligations of the authority payable solely and only out of the moneys, assets, or revenues pledged by the authority and are not a general obligation or indebtedness of the authority or an obligation or indebtedness of the state or any political subdivision of the state. The authority shall not pledge the credit or taxing power of the state or any political subdivision of the state, or create a debt or obligation of the state, or make its debts payable out of any moneys except those of the authority specifically pledged to such purpose, and shall exclude from any such pledge those moneys deposited in the tobacco securitization settlement trust fund.

4. Bonds issued by the authority shall state on their face that they are special obligations payable both as to principal and interest solely out of the assets of the authority pledged for their purpose and do not constitute an indebtedness of the state or any political subdivision of the state; are secured solely by and payable solely from assets of the authority pledged for such purpose; constitute neither a general, legal, or moral obligation of the state or any of its political subdivisions; and that the state has no obligation or intention to satisfy any deficiency or default of any payment of the bonds.

5. Any amount pledged by the authority to be received under the master settlement agreement shall be valid and binding at the time the pledge is made. Amounts so pledged and then or thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution of the authority or any other instrument by which a pledge is created need not be recorded or filed to perfect such pledge.

6. The bonds shall comply with all of the following:

(1) The bonds shall be in a form, issued in denominations, executed in a manner, and payable over terms, not to exceed forty-five years, and with rights of redemption, as the board prescribes in the resolution authorizing their issuance;

(2) The bonds shall be fully negotiable instruments under the laws of the state. The sale of bonds issued pursuant to this section may be completed on a negotiated or competitive basis, but in no event shall such bonds be sold for less than ninety-five percent of the par value thereof, plus accrued interest;

(3) The aggregate costs of issuance of any bonds or other obligations issued by the authority (excluding insurance or other credit enhancement) shall not exceed one and one-half percent of the aggregate principal amount of the bonds, if the aggregate principal amount is equal to or greater than three hundred million dollars, or two percent of the aggregate principal amount of the bonds, if the aggregate principal amount is less than three hundred million dollars. The authority shall not procure insurance or other credit enhancement for the bonds unless the underwriter or the authority's financial advisor certifies that the present value of the premium paid for such insurance or credit enhancement is less than the present value of the interest expected to be saved as a result of the insurance or credit enhancement; and

(4) The bonds shall be subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest which may be fixed or variable during any period the bonds are outstanding, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with sections 8.500 to 8.565 and as determined by resolution of the board authorizing their issuance.

7. All banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees, and other fiduciaries legally may invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to sections 8.500 to 8.565. Interest on the authority's bonds shall be exempt from Missouri taxation in the state of Missouri for all purposes except the state estate tax.

8. Following the approval of the board of public buildings, bonds may be issued by the authority pursuant to the provisions of sections 8.500 to 8.565 pursuant to a resolution adopted by the affirmative vote of two-thirds of the members of the board and no other proceedings shall be required therefor. However, a resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds by an appropriate certificate of the authorized officer.

9. The state reserves the right at any time to alter, amend, repeal, or otherwise change the structure, organization, programs, or activities of the authority, including the power to terminate the authority, except that a law shall not be enacted that impairs any obligation made pursuant to a sales agreement or any contract entered into by the authority with or on behalf of the holders of the bonds.

8.550. TOBACCO SECURITIZATION SETTLEMENT TRUST FUND ESTABLISHED, SOURCE OF FUND MONEYS, USES—QUALIFIED TAX-EXEMPT EXPENDITURE ACCOUNT AND TAXABLE EXPENDITURE ACCOUNT AUTHORIZED. — 1. A tobacco securitization settlement trust fund

is established, separate and apart from all other public moneys or funds of the state, under the control of the authority. The fund shall consist of moneys paid to the authority and not pledged to the payment of bonds or otherwise obligated or any other moneys deposited to the fund by the authority. Such moneys shall include but are not limited to payments received from the master settlement agreement which are not pledged to the payment of bonds or which are subsequently released from a pledge to the payment of any bonds; payments which, in accordance with any sales agreement with the state, are to be paid to the state and not pledged to the bonds, including that portion of the proceeds of any bonds designated for purchase of a portion of the state's share, which are designated for deposit in the fund, together with all interest, dividends, and rents on the bonds; and all securities or investment income and other assets acquired by and through the use of the moneys belonging to the fund and any other moneys deposited in the fund. Moneys in the fund are to be used solely and only as provided in this section, and shall not be used for any other purpose. Such moneys shall not be available for the payment of any claim against the authority or any debt or obligation of the authority.

2. There shall be established within the tobacco securitization settlement trust fund a "qualified tax-exempt expenditure account" and a "taxable expenditure account". The net proceeds of all tax-exempt bonds shall be deposited in the qualified tax-exempt expenditure account. The net proceeds of all taxable bonds shall be deposited in the taxable expenditure account. Moneys deposited in the qualified tax-exempt expenditure account shall be used to pay or reimburse the state for expenditures which are permissible under federal tax law governing tax-exempt bonds. Upon such reimbursement or use such moneys shall be transferred by the authority to the state treasurer for deposit in the state general revenue fund and applied as provided in subsection 4 of this section or to such other fund as may be provided by law. Moneys deposited in the taxable expenditure account shall, upon direction of the authority, be transferred to the state treasurer for deposit in the state general revenue fund or to such other fund as may be provided by law.

3. For the purpose of maximizing the amount of tax-exempt bonds to be issued, the governor or an authorized designee may evidence in writing the state's intent to finance any state expenditure from the proceeds of bonds either by directly funding such expenditure or through reimbursement of amounts originally funded from another source. An allocation of proceeds of bonds to finance any expenditure originally funded from another source may be evidenced by a written statement signed by the governor or an authorized designee. Upon such allocation, the amount allocated shall be deposited to the general revenue fund of the state and thereafter may be appropriated for any purpose. The treasurer of the authority shall act as custodian and trustee of the tobacco securitization settlement trust fund and shall administer the fund as directed by the authority. The treasurer of the authority shall do all of the following: hold, invest and disburse funds; sell any securities or other property held by the fund and reinvest the proceeds as directed by the authority, when deemed advisable by the authority for the protection of the fund or the preservation of the value of the investment; subscribe, at the direction of the authority, for the purchase of securities for future delivery in anticipation of future income; and pay for securities, as directed by the authority, upon the receipt of the purchasing entity's paid statement or paid confirmation of purchase. Any sale of securities or other property held by the fund under this subsection shall only be made with the advice of the board in the manner and to the extent provided in sections 8.500 to 8.565 with regard to the purchase of investments.

4. All moneys paid to or deposited in the fund are available to the authority to be used in accordance with sections 8.500 to 8.565, including but not limited to all of the following:

(1) For payment of amounts due to the state pursuant to the terms of the sales agreements entered into between the state and the authority;

(2) For purposes of paying or reimbursing the state for expenditures which are permissible under federal tax law governing tax-exempt bonds; provided, such moneys are transferred at the time of such payment or reimbursement to the state treasurer for deposit in the state general revenue fund and used by the state treasurer solely to pay the costs of implementing the program plan;

(3) For transfer to the state general revenue fund for the payment of the costs of implementing the program plan;

(4) To make interim transfers to the state as provided in subsection 5 of this section; and

(5) For payment of any other costs other than the payment of bonds approved by the authority to implement sections 8.500 to 8.565.

5. Prior to disbursement of the moneys in the tobacco securitization settlement trust fund in accordance with subsection 4 of this section, the authority shall have the power to transfer moneys in the fund to the state general revenue fund for the purposes of funding the program plan on an interim basis, provided the state agrees to reimburse the tobacco securitization settlement trust fund before the date such moneys are expected to be expended by the authority.

6. No more than one hundred seventy-five million dollars of the net proceeds of bonds authorized by sections 8.500 to 8.565 may be applied to the payment of the costs of the program plan during any fiscal year; provided, amounts not so applied during a prior fiscal year may be carried over and applied to costs of implementing the program plan during the next successive fiscal year.

8.552. AUTHORITY TO DETERMINE DEPOSIT AND WITHDRAWAL OF MONEYS. — Moneys of the authority, except as otherwise provided in sections 8.500 to 8.565 or specified in a trust indenture or resolution pursuant to which the bonds are issued, shall be paid to the authority and shall be deposited in such manner as shall be determined by the authority. The moneys shall be withdrawn on the order of the authority or its designee. All moneys of the authority or moneys held by the authority shall be invested and held in the name of the authority, whether they are held for the benefit, security, or future payment to holders of bonds or to the state.

8.555. EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS OF THE STATE. — The authority and contracts entered into by the authority in carrying out its public and essential governmental functions are exempt from the laws of the state which provide for competitive bids.

8.557. ANNUAL REPORT TO THE GENERAL ASSEMBLY TO BE SUBMITTED, CONTENT. — The authority shall submit to the general assembly, annually, a report covering its operations and accomplishments; receipts and expenditures, assets and liabilities, a schedule of its bonds outstanding and any other information the authority deems necessary.

8.560. NO BANKRUPTCY PETITION MAY BE FILED, WHEN. — Prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition pursuant to chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor pursuant to chapter 9 or any successor or corresponding chapter or sections during such periods. The provisions of this section shall be part of any contractual obligation owed to the holders of bonds issued under sections 8.500 to 8.565 and shall not subsequently be modified by state law during the period of the contractual obligation.

8.565. DISSOLUTION OF AUTHORITY, WHEN — TRANSFER OF ASSETS UPON DISSOLUTION. — The authority shall dissolve no later than two years from the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with sections 8.500 to 8.565. Upon dissolution of the authority, all assets of the authority shall be transferred to the state and shall be deposited in the state's general revenue fund, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement.

8.570. ISSUANCE OF BONDS BY BOARD OF PUBLIC BUILDINGS, USE OF PROCEEDS. — The board of public buildings may issue bonds payable from not more than thirty percent of the state's share; provided, and the maximum amount of the state's share sold by the authority pursuant to section 8.535 and by the board of public buildings pursuant to this section shall collectively not exceed thirty percent of the state's share. The proceeds from bonds issued by the board of public buildings under this section may be deposited directly to the general revenue fund or deposited to the tobacco bond proceeds fund hereby created and then transferred to the general revenue fund. Repayment of any bonds issued pursuant to this section may be made solely from such portion of the state's share, an appropriation specifically authorized for such purpose or from any appropriation from the state's share for any other purpose.

8.572. BOND ISSUANCE NOT DEEMED INDEBTEDNESS OF THE STATE OR BOARD OF PUBLIC BUILDINGS. — Any bonds issued by the board of public buildings pursuant to sections 8.570 to 8.590 shall not be deemed to be an indebtedness of the state of Missouri or of the board of public buildings, or of the individual members of the board of public buildings, and shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness.

8.575. BOND REQUIREMENTS. — Bonds issued pursuant to the provisions of sections 8.570 to 8.590 shall be of such denomination or denominations, shall bear such rate or rates of interest not to exceed fifteen percent per annum, and shall mature at such time or times within forty-five years from the date thereof, as the board of public buildings determines. The bonds may be either serial bonds or term bonds. The sale of bonds issued pursuant to this section may be completed on a negotiated or competitive basis, but in no event shall such bonds be sold for less than ninety-five percent of the par value thereof, and accrued interest. The bonds, when issued and sold, shall be negotiable instruments within the meaning of the law merchant and the negotiable instruments law, and the interest thereon shall be exempt from income taxes pursuant to the laws of the state.

8.580. REFUNDING OF BONDS, WHEN, PROCEDURE. — 1. Bonds issued by the board of public buildings pursuant to the provisions of sections 8.570 to 8.590 may be refunded, in whole or in part, at any time whenever the board of public buildings determines that such a refunding is in the best interest of the state or the board of public buildings.

2. For the purpose of refunding any bonds issued hereunder, including refunding bonds, the board of public buildings may make and issue refunding bonds in the amount necessary to pay off and redeem the bonds to be refunded together with unpaid and past due interest thereon and any premium which may be due under the terms of the bonds, together also with the cost of issuing the refunding bonds, and may sell the same in like manner as is herein provided for the sale of bonds being refunded. Refunding bonds

issued pursuant to sections 8.500 to 8.590 shall be payable in not more than forty years from the date thereof and shall bear interest at a rate not to exceed fifteen percent per annum.

3. The refunding bonds shall be payable from the same sources as were pledged to the payment of the bonds refunded thereby and in the discretion of the board of public buildings, may be payable from any other sources which pursuant to sections 8.500 to 8.590 may be pledged to the payment of revenue bonds issued hereunder. Bonds of two or more issues may be refunded by a single issue of refunding bonds.

8.585. FORM DETAILS AND INCIDENTS OF BONDS TO BE PRESCRIBED BY BOARD OF PUBLIC BUILDINGS. — The board of public buildings may prescribe the form details and incidents of the bonds, and make the covenants that in its judgment are advisable or necessary properly to secure the payment thereof; but the form, details, incidents and covenants shall not be inconsistent with any of the provisions of sections 8.570 to 8.590. Such bonds may have the seal of the board of public buildings impressed thereon or affixed thereto or imprinted or otherwise reproduced thereon. If such bonds shall be authenticated by the bank or trust company acting as registrar for such bonds by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board of public buildings executing and attesting such bonds, may all do so by facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the board of public buildings and the provisions of section 108.175, RSMo, shall not apply to such bonds. The holder or holders of any bond or bonds issued hereunder or of any coupons representing interest accrued thereon may, by proper civil action either at law or in equity, compel the board of public buildings to perform all duties imposed upon it and also to enforce the performance of any and all other covenants made by the board of public buildings in the issuance of the bonds.

8.590. RESOLUTION OF BOARD OF PUBLIC BUILDINGS REQUIRED FOR ISSUANCE OF BONDS. — Bonds may be issued pursuant to the provisions of sections 8.580 to 8.598 pursuant to a resolution adopted by the affirmative vote of two-thirds of the members of the board of public buildings and no other proceedings shall be required therefor.

8.592. ISSUANCE OF NOTES, MATURITY DATES — TRANSFER OF FUNDS TO SECURE NOTES. — The board of public buildings shall have the power to issue notes with a maturity of not more than one year from the date of issue for the purpose of preserving any expenditure of moneys from the state general revenue fund for reimbursement from the proceeds of any bonds issued pursuant to sections 8.500 to 8.565. The state may transfer to the board of public buildings funds designated in the state's budget for such expenditure for the purpose of securing such notes. The purpose for the issuance of such notes and the transfer of such moneys shall be to maximize the utilization of tax-exempt bonds by the tobacco settlement financing authority.

8.595. LIBERAL CONSTRUCTION OF ACT. — Sections 8.500 to 8.590, being deemed necessary for the public health, welfare, peace and safety shall be liberally construed to effect its purpose.

SECTION 1. ADVISORY COMMITTEE OF TOBACCO SECURITIZATION ESTABLISHED, MEMBERS, DUTIES. — 1. There is established a joint committee of the General Assembly to be known as the "Advisory Committee on Tobacco Securitization", to be comprised of five members of the senate and five members of the house of representatives. Three of the senate members shall be appointed by the president pro tem of the senate and two by

the senate minority leader. Three of the house members shall be appointed by the speaker of the house and two by the house minority leader. The appointment of each member shall continue during his or her term of office as a member of the general assembly or until a successor has been duly appointed to fill his or her place when his or her term of office as a member of the general assembly has expired.

2. The committee shall study and recommend who the financial advisors, investment bankers, and other professional advisors shall be for the Authority, and shall make a written report to the Authority within sixty days of passage of the bill. The committee shall also study and provide a written report by December 31 of each year to the Authority detailing suggested allowable projects and payments for which money from the tobacco settlement securitization settlement trust fund may be used in the next appropriation cycle.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure a balanced state budget, 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 May 17, 2002, or upon its passage and approval by the governor, whichever later occurs.

Approved June 7, 2002

SB 1199 [SB 1199]

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

Designates the portion of certain highways.

AN ACT to amend chapter 227, RSMo, by adding thereto two new sections relating to highways.

SECTION

- A. Enacting clause.
- 227.333. Sergeant Randy Sullivan Memorial Highway designated (Iron County).
 - 1. Ozark Mills Country designated.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto two new sections, to be known as sections 227.333 and 1, to read as follows:

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."

SECTION 1. OZARK MILLS COUNTRY DESIGNATED. — The portion of Ozark County north of U.S. highway 160, east of state routes 5 and 95, south of the Ozark and Douglas County line, and west of the Ozark and Howell County line shall be designated as "Ozark Mills Country".

Approved July 11, 2002

SB 1202 [CCS HCS SCS SB 1202]

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

Transfers various powers to the Department of Transportation to implement the Governor's executive order.

AN ACT to repeal sections 389.005 and 389.610, RSMo, and to enact in lieu thereof five new sections relating to the directives of executive order number 02-03, signed by the governor February 7, 2002, with an emergency clause.

SECTION

- A. Enacting clause.
 - 104.805. Employees transferred to department of transportation (MoDOT) not members of closed highways and transportation employees' and highway patrol retirement system unless election made, procedure.
 - 308.010. Responsibilities and authority of highways and transportation commission — transfer of authority to department of transportation.
 - 389.005. Division, transferred to department of transportation.
 - 389.610. Railroad crossings construction and maintenance, highways and transportation commission to have exclusive power to regulate and provide standards — apportionment of cost.
 - 621.040. Administrative law judges of the division of motor carrier and railroad safety shall be commissioners of the administrative hearing commission — jurisdiction of administrative hearing commission.
- B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 389.005 and 389.610, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 104.805, 308.010, 389.005, 389.610, and 621.040, to read as follows:

104.805. EMPLOYEES TRANSFERRED TO DEPARTMENT OF TRANSPORTATION (MoDOT) NOT MEMBERS OF CLOSED HIGHWAYS AND TRANSPORTATION EMPLOYEES' AND HIGHWAY PATROL RETIREMENT SYSTEM UNLESS ELECTION MADE, PROCEDURE. — **1. Employees who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are, as a result of the provisions of this act, transferred to the department of transportation will not become members of the closed plan of the highways and transportation employees' and highway patrol retirement system unless they elect to transfer membership and creditable service to the closed plan of the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of the effective date of this act. Any election to transfer membership and creditable service to the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and creditable service pursuant to this subsection will result in the employees remaining in the closed plan of the Missouri state employees' retirement system.**

If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2003.

2. Employees who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are, as a result of the provisions of this act, transferred to the department of transportation will remain in the year 2000 plan administered by the Missouri state employees' retirement system unless they elect to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of the effective date of this act. Any election to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and credited service pursuant to this subsection will result in the employees remaining in the year 2000 plan administered by the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2003.

3. For any employee who elects under subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the Missouri state employees' retirement system shall pay to the highways and transportation employees' and highway patrol retirement system, by December 31, 2002, an amount actuarially determined to equal the liability transferred from the Missouri state employees' retirement system.

4. In no event shall any employee receive service credit for the same period of service under more than one retirement system as a result of the provisions of this section.

5. For any transferred employee who elects under subsection 1 or 2 of this section to transfer to the highways and transportation employee's and highway patrol retirement system, the only medical coverage available for the employee shall be the medical coverage provided in section 104.270, RSMo. The effective date for commencement of medical coverage shall be January 1, 2003. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.

308.010. RESPONSIBILITIES AND AUTHORITY OF HIGHWAYS AND TRANSPORTATION COMMISSION — TRANSFER OF AUTHORITY TO DEPARTMENT OF TRANSPORTATION. — 1. The highways and transportation commission shall have responsibility and authority, as provided in this act, for the administration and enforcement of:

(1) Licensing, supervising and regulating motor carriers for the transportation of passengers, household goods and other property by motor vehicles within this state;

(2) Licensing motor carriers to transport hazardous waste, used oil, infectious waste and permitting waste tire haulers in intrastate or interstate commerce, or both, by motor vehicles within this state;

(3) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation, within the terminals of motor carriers and motor private carriers of passengers or property;

(4) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation wherever they possess, transport or deliver hazardous waste, used oil, infectious waste or waste tires. This authority is in addition to, and not exclusive of, the authority of the department of natural resources to ensure compliance with any and all applicable requirements related to the transportation of hazardous waste, used oil, infectious waste or waste tires;

(5) Collecting and regulating amounts payable to the state from interstate motor carriers in accordance with the provisions of the International Fuel Tax Agreement in

accordance with section 142.617, RSMo, and any successor or similar agreements, including the authority to impose and collect motor fuel taxes due pursuant to chapter 142, RSMo, and such agreement;

(6) Registering and regulating interstate commercial motor vehicles operated upon the highways of this state, in accordance with the provisions of the International Registration Plan in accordance with sections 301.271 through 301.277, RSMo, and any successor or similar agreements, including the authority to issue license plates in accordance with sections 301.130 and 301.041, RSMo;

(7) Permitting the transportation of over dimension or overweight motor vehicles or loads that exceed the maximum weights or dimensions otherwise allowed upon the public highways within the jurisdiction of the highways and transportation commission; and

(8) Licensing intrastate house movers.

2. The highways and transportation commission shall carry out all powers, duties and functions relating to intrastate and interstate transportation previously performed by:

(1) The division of motor carrier and railroad safety within the department of economic development, and all officers or employees of that division;

(2) The department of natural resources, and all officers or employees of that division, relating to the issuance of licenses or permits to transport hazardous waste, used oil, infectious waste or waste tires by motor vehicles operating within the state;

(3) The highway reciprocity commission within the department of revenue, and all officers or employees of that commission; and the director of revenue's powers, duties and functions relating to the highway reciprocity commission, except that the highways and transportation commission may allow the department of revenue to enforce the provisions of the International Fuel Tax Agreement, as required by such agreement; and

(4) The motor carrier services unit within the traffic functional unit of the department of transportation, relating to the special permitting of operations on state highways of motor vehicles or loads that exceed the maximum length, width, height or weight limits established by law or by the highways and transportation commission.

3. All the powers, duties and functions described in subsections 1 and 2 of this section, including but not limited to, all powers, duties and functions pursuant to chapters 387, 390 and 622, RSMo, including all rules and orders, are hereby transferred to the department of transportation, which is in the charge of the highways and transportation commission, by type I transfer, as defined in the Omnibus State Reorganization Act of 1974, and the preceding agencies and officers shall no longer be responsible for those powers, duties and functions.

4. All the powers, duties and functions, including all rules and orders, of the administrative law judges of the division of motor carrier and railroad safety, as amended by the provisions of this act, are hereby transferred to the administrative hearing commission within the state office of administration.

5. The division of motor carrier and railroad safety and the highway reciprocity commission are abolished.

6. Personnel previously employed by the division of motor carrier and railroad safety and the highway reciprocity commission shall be transferred to the department of transportation, but the department of natural resources shall not be required to transfer any personnel pursuant to this section. The administrative law judge within the division of motor carrier and railroad safety shall be transferred to the administrative hearing commission.

7. Credentials issued by the transferring agencies or officials before the effective date of this act shall remain in force or expire as provided by law. In addition, the highways and transportation commission shall have the authority to suspend, cancel or revoke such credentials after the effective date of this act.

8. Notwithstanding any provision of law to the contrary, on and after the effective date of this section all surety bonds, cash bonds, certificates of deposit, letters of credit, drafts, checks or other financial instruments payable to:

(1) The highway reciprocity commission or the department of revenue pursuant to section 301.041, RSMo, or pursuant to the International Fuel Tax Agreement; or

(2) Any other agency or official whose powers, duties or functions are transferred pursuant to this section, shall be payable instead to the state highways and transportation commission.

9. The department of natural resources shall have authority to collect and establish by rule the amount of the fee paid by applicants for a permit to transport waste tires.

10. The Missouri hazardous waste management commission created in section 260.365, RSMo, shall have the authority to collect and establish by rule the amount of the fee paid by applicants for a license to transport hazardous waste, used oil, or infectious waste pursuant to section 260.395, RSMo.

389.005. DIVISION, TRANSFERRED TO DEPARTMENT OF TRANSPORTATION. — [The term "division", as used in this chapter, means the division of motor carrier and railroad safety within the department of economic development, unless such use is clearly contrary to the context.] Except as otherwise provided in this act, all the powers, duties and functions of the division of motor carrier and railroad safety relating to rail transportation activities, including all rules and orders, as provided in this chapter and chapters 388, 391 and 622, RSMo, are hereby transferred to the department of transportation, which is in the charge of the highways and transportation commission, by type I transfer as set forth in the Omnibus State Reorganization Act of 1974. Except as otherwise provided, all personnel of the division of motor carrier and railroad safety are transferred to the department of transportation by section 308.010, RSMo, except that the administrative law judge is transferred by section 308.010, RSMo, to the administrative hearing commission.

389.610. RAILROAD CROSSINGS CONSTRUCTION AND MAINTENANCE, HIGHWAYS AND TRANSPORTATION COMMISSION TO HAVE EXCLUSIVE POWER TO REGULATE AND PROVIDE STANDARDS — APPORTIONMENT OF COST. — 1. No public road, highway or street shall be constructed across the track of any railroad corporation, nor shall the track of any railroad corporation be constructed across a public road, highway or street, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade nor shall the track of a street railroad corporation be constructed across the tracks of a railroad corporation at grade, without having first secured the permission of the [division of motor carrier and railroad safety] **highways and transportation commission**, except that this subsection shall not apply to the replacement of lawfully existing tracks. The [division] **commission** shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

2. Every railroad corporation shall construct and maintain good and sufficient crossings and crosswalks where its railroad crosses public roads, highways, streets or sidewalks now or hereafter to be opened.

3. The [division of motor carrier and railroad safety] **highways and transportation commission** shall make and enforce reasonable rules and regulations pertaining to the construction and maintenance of all public grade crossings. These rules and regulations shall establish minimum standards for:

- (1) The materials to be used in the crossing surface;
- (2) The length and width of the crossing;
- (3) The approach grades;
- (4) The party or parties responsible for maintenance of the approaches and the crossing surfaces.

4. The [division] **highways and transportation commission** shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, apportionment of expenses, use and warning devices of each crossing of a public road, street or highway by a railroad or street railroad, and of one railroad or street railroad by another railroad or street railroad. In order to facilitate such determinations, the [division] **highways and transportation commission** may adopt pertinent provisions of The Manual on Uniform Traffic Control Devices for Streets and Highways or other national standards.

5. The [division] **highways and transportation commission** shall have the exclusive power to alter or abolish any crossing, at grade or otherwise, of a railroad or street railroad by a public road, highway or street whenever the [division] **highways and transportation commission** finds that public necessity will not be adversely affected and public safety will be promoted by so altering or abolishing such crossing, and to require, where, in its judgment it would be practicable, a separation of grades at any crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made.

6. The [division] **highways and transportation commission** shall have the exclusive power to prescribe the proportion in which the expense of the construction, installation, alteration or abolition of such crossings, the separation of grades, and the continued maintenance thereof, shall be divided between the railroad, street railroad, and the state, county, municipality or other public authority in interest.

7. Any agreement entered into after October 13, 1963, between a railroad or street railroad and the state, county, municipality or other public authority in interest, as to the apportionment of any cost mentioned in this section shall be final and binding upon the filing with the [division] **highways and transportation commission** of an executed copy of such agreement. If such parties are unable to agree upon the apportionment of the cost, the [division] **highways and transportation commission** shall apportion the cost among the parties according to the benefits accruing to each. In determining such benefits, the [division] **highways and transportation commission** shall consider all relevant factors including volume, speed and type of vehicular traffic, volume, speed and type of train traffic, and advantages to the public and to such railroad or street railroad resulting from the elimination of delays and the reduction of hazard at the crossing.

8. Upon application of any person, firm or corporation, the [division] **highways and transportation commission** shall determine if an existing private crossing has become or a proposed private crossing will become utilized by the public to the extent that it is necessary to protect or promote the public safety. The [division] **highways and transportation commission** shall consider all relevant factors including but not limited to volume, speed, and type of vehicular traffic, and volume, speed, and type of train traffic. If it be determined that it is necessary to protect and promote the public safety, the [division] **highways and transportation commission** shall prescribe the nature and type of crossing protection or warning device for such crossing, the cost of which shall be apportioned by the [division] **highways and transportation commission** among the parties according to the benefits accruing to each. In the event such crossing protection or warning device as prescribed by the [division] **highways and transportation commission** is not installed, maintained or operated, the crossing shall be closed to the public.

9. The exclusive power of the highways and transportation commission pursuant to this section shall be subject to review, determination, and prescription by the administrative hearing commission, upon application to that commission by any interested party. Upon filing of an application pursuant to this subsection, the administrative hearing commission is vested with the exclusive power of the highways and transportation commission otherwise provided in this section, with reference to matters reviewed, determined or prescribed by the administrative hearing commission.

621.040. ADMINISTRATIVE LAW JUDGES OF THE DIVISION OF MOTOR CARRIER AND RAILROAD SAFETY SHALL BE COMMISSIONERS OF THE ADMINISTRATIVE HEARING COMMISSION — JURISDICTION OF ADMINISTRATIVE HEARING COMMISSION. — Notwithstanding the provisions of chapter 621.015, to the contrary, after the effective date of this act, all individuals authorized on that date as administrative law judges of the division of motor carrier and railroad safety within the department of economic development shall be commissioners of the administrative hearing commission within the office of administration, and shall serve out the unexpired remainder of their terms as commissioners. They shall have the same powers, duties, functions, and compensation as provided by law for the other commissioners, and after the expiration of their terms they may be reappointed in the same manner as other commissioners. The administrative hearing commission shall have jurisdiction to conduct hearings, make findings of fact and conclusions of law, and issue orders in all applicable cases relating to motor carrier and railroad regulation transferred to the highways and transportation commission pursuant to this act, except that, notwithstanding any provision of law to the contrary, the highways and transportation commission may issue final agency orders without involvement of the administrative hearing commission in relation to:

- (1) Uncontested motor carrier cases, and other uncontested motor carrier matters, or in which all parties have waived a hearing in writing; and
- (2) Approval of settlement agreements or issuance of consent orders in motor carrier or railroad enforcement cases, if all parties have consented in writing to the issuance of the commissioner's order.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure safe and efficient administration of commercial motor vehicles within this 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, or July 1, 2002, whichever later occurs.

Approved July 11, 2002

SB 1207 [SCS SB 1207]

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 State Board of Registration for the Healing Arts to accept continuing medical education on autism.

AN ACT to amend chapter 334, RSMo, by adding thereto one new section relating to continuing medical education on autism.

SECTION

- A. Enacting clause.
- 334.073. Continuing medical education on autism required.

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

SECTION A. ENACTING CLAUSE. — Chapter 334, RSMo, is amended by adding thereto one new section, to be known as section 334.073, to read as follows:

334.073. CONTINUING MEDICAL EDUCATION ON AUTISM REQUIRED. — Pursuant to the requirements of 4 CSR 150-2.125, the state board of registration for the healing arts shall accept toward the fifty-hour license renewal requirement, continuing medical education courses which have an emphasis on the early diagnosis and treatment of autism in children.

Approved July 2, 2002

SB 1210 [HCS SCS SB 1210]

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 counties and cites to impose a tourism sales tax.

AN ACT to repeal sections 92.327 and 92.336, RSMo, relating to taxes for the promotion of tourism, and to enact in lieu thereof three new sections relating to the same subject.

SECTION

- A. Enacting clause.
- 67.1361. Tax on charges for sleeping rooms for certain counties and cities (Buchanan County and City of St. Joseph).
- 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.

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

SECTION A. ENACTING CLAUSE. — Sections 92.327 and 92.336, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.1361, 92.327 and 92.336, to read as follows:

67.1361. TAX ON CHARGES FOR SLEEPING ROOMS FOR CERTAIN COUNTIES AND CITIES (BUCHANAN COUNTY AND CITY OF ST. JOSEPH). — **1.** The governing body of any county of the first classification without a charter form of government and with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants and the governing body of any home rule city with more than seventy-three thousand nine hundred but less than seventy-four thousand 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 eight percent per occupied room or slip per night, except that such tax shall not become effective unless the governing body of the county or city submits to the voters of the county or city at a state general, primary or special election, a proposal to authorize the governing body of the county or city to impose a tax pursuant to this section. The tax authorized by this section 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 for funding the promotion of tourism and convention facilities. Such tax shall be stated separately from all other charges and taxes.

2. Any tax imposed by a county pursuant to subsection 1 of this section shall apply only to unincorporated areas of such county.

3. The question shall be submitted in substantially the following form:

Shall the (city or county) levy a tax of percent on each sleeping room or campsite occupied and rented by transient guests and any docking facility which rents slips to recreational boats which are used by transients for sleeping in the (city or county), where the proceeds of which shall be expended for promotion of tourism and convention facilities?

YES

NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city or county shall have no power to impose the tax authorized by this section unless and until the governing body of the city or county again submits the question to the qualified voters of the city or county and such question is approved by a majority of the qualified voters voting on the question.

4. On and after the effective date of any tax authorized under the provisions of this section, the city or county may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city or county may adopt rules and regulations for the internal collection of such tax by the city or county officers usually responsible for collection and administration of city or county taxes; or

(2) The city or county enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section. In the event any city or county enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section. The tax authorized under the provisions of this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain an amount not to exceed one percent for cost of collection.

5. If a tax is imposed by a city or county under this section, the city or county may collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

6. As used in this section "transient guests" means a person or persons who occupy room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

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.

Approved June 12, 2002

SB 1213 [HCS SB 1213]

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

Requires railroad policemen to be commissioned.

AN ACT to repeal sections 388.610 and 388.640, RSMo, and to enact in lieu thereof two new sections relating to railroad corporations.

SECTION

A. Enacting clause.

388.610. Director of department of public safety to appoint — commissions, oath, bond of appointees.

388.640. License as peace officer required.

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

SECTION A. ENACTING CLAUSE. — Sections 388.610 and 388.640, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 388.610 and 388.640, to read as follows:

388.610. DIRECTOR OF DEPARTMENT OF PUBLIC SAFETY TO APPOINT — COMMISSIONS, OATH, BOND OF APPOINTEES. — The [superintendent of the Missouri state highway patrol] **director of the department of public safety** shall approve applications and appoint such railroad policemen as he deems proper, taking into consideration, among other things, the

education, training and experience of each person so appointed concerning the powers of peace officers and the limitations on powers of peace officers in regard to the constitutional rights of citizens to be secure in their persons and property. Those approved [and], appointed, **and commissioned** by the [superintendent of the Missouri state highway patrol] **director of the department of public safety** shall be issued commissions by the [superintendent of the Missouri state highway patrol] **director of the department of public safety**, and each of them, before entering into the performance of his duties, shall subscribe before the clerk of a circuit court of this state, an oath in the form prescribed by section 11, article VII, of the constitution of this state, to support the constitution and laws of the United States and the state of Missouri, to faithfully demean himself in the office and to faithfully perform the duties of the office, and each of them shall enter into a surety bond in the sum of ten thousand dollars payable to the state of Missouri, conditioned upon the faithful performance of his duties. The executed oath of office, together with a copy of the commission and the bond, shall be filed with the [office of the superintendent of the Missouri state highway patrol] **director of the department of public safety** until the commission is terminated or revoked as provided [herein.] **in this section. As used in this section relating to railroad policemen, the word "commission" means a grant of authority to act as a peace officer.**

388.640. LICENSE AS PEACE OFFICER REQUIRED. — All railroad policemen who become employed after September 28, 1971, shall, before appointment, [attend a law enforcement training course upon payment by his railroad of such reasonable fees as the director or managing officer of such school shall fix] **be a licensed peace officer in accordance with the provisions of chapter 590, RSMo.**

Approved July 10, 2002

SB 1217 [SB 1217]

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 lists.

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

SB 1241 [SCS SB 1241, 1253 & 1189]

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

Creates a Breast Cancer Awareness special license plate.

AN ACT to amend chapter 301, RSMo, by adding thereto five new sections relating to special license plates.

SECTION

- A. Enacting clause.
- 301.2999. Limitation on special license plates, organization authorizing use of its emblem for a fee.
- 301.3086. Delta Sigma Theta and Omega Psi Phi special license plates, application, fee.
- 301.3098. Kingdom of Calontir special license plate, application, fee.
- 301.3099. Missouri Civil War Reenactors Association special license plate, application, fee.
- 301.3112. Friends of the Missouri Women's Council special license plate, application, fee.

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 five new sections, to be known as sections 301.2999, 301.3086, 301.3098, 301.3099 and 301.3112, to read as follows:

301.2999. LIMITATION ON SPECIAL LICENSE PLATES, ORGANIZATION AUTHORIZING USE OF ITS EMBLEM FOR A FEE. — **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 is a governmental entity or is an organization registered pursuant to section 501(c)(3) of the 1986 Internal Revenue Code, as amended, or an equivalent law which applies to such not-for-profit entity. 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 for funds for the use of their emblems to verify their status as a governmental entity or a not-for-profit organization, 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.**

301.3086. DELTA SIGMA THETA AND OMEGA PSI PHI SPECIAL LICENSE PLATES, APPLICATION, FEE. — **1. Any current member or alumnus 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. 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 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.

301.3098. 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.

301.3112. 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 given pursuant to this section shall be designated for breast cancer services only. 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 contribution to the Friends of the Missouri Women's Council derived from this section, except reasonable administrative costs, shall be used solely for the purpose of providing breast cancer services. 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 the emblem of the Friends of the Missouri Women's Council and shall bear the words "BREAST CANCER AWARENESS" 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 Friends of the Missouri Women's 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 Friends of the Missouri Women's 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 July 12, 2002

SB 1243 [SB 1243]

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

Changes term "innkeeper" to "lodging establishment" and changes posting of notice requirements for lodging establishments.

AN ACT to repeal sections 419.010, 419.020, 419.030 and 419.040, RSMo, relating to lodging establishments, and to enact in lieu thereof four new sections relating to the same subject.

SECTION

- A. Enacting clause.
 - 419.010. Lodging establishment liable, when — defined.
 - 419.020. Lodging establishment not liable, when.
 - 419.030. Lodging establishment not liable for baggage, when.
 - 419.040. Rates — duty to post.
-

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

SECTION A. ENACTING CLAUSE. — Sections 419.010, 419.020, 419.030 and 419.040, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 419.010, 419.020, 419.030 and 419.040, to read as follows:

419.010. LODGING ESTABLISHMENT LIABLE, WHEN — DEFINED. — **1. As used in this chapter, the term "lodging establishment" shall be any building, group of buildings, structure, facility, place, or places of business where five or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests, or for both transient and permanent guests.**

2. No [hotel or innkeeper] lodging establishment in this state is liable for the loss of any money, jewelry, wearing apparel, baggage or other property of a guest in a total sum greater than two hundred dollars, unless the [hotel keeper or innkeeper] **lodging establishment** by an agreement in writing individually, or by the authorized agent or clerk in charge of the office of the [hotel or inn] **lodging establishment**, voluntarily assumes a greater liability with reference to such property. As regards money, jewelry or baggage, [an hotel keeper or innkeeper] **a lodging establishment** is not liable in any event for the loss thereof or damage thereto, unless the same was actually delivered by the guest to him or his authorized agent, or clerk, in the office of the [hotel or inn] **lodging establishment**, and the receipt thereof acknowledged by the delivery to the guest of a claim check of the [hotel keeper or innkeeper] **lodging establishment**, unless the loss or damage occurs through the willful negligence or wrongdoing of the [hotel keeper or innkeeper] **lodging establishment**, his servants or employees. This section shall be posted in [the office of every hotel and inn] **a conspicuous manner at the guest registration desk** and in every guest room thereof, and unless so posted the same does not apply in the case of [hotel keepers or innkeepers] **a lodging establishment** failing to post same.

419.020. LODGING ESTABLISHMENT NOT LIABLE, WHEN. — No [innkeeper] **lodging establishment** in this state, [who] **which** shall constantly have [in his inn an iron] **a safe**, in good order, and suitable for the safe custody of money, jewelry and articles of gold and silver manufacture, and of the like, and [who] **which** shall keep a copy of sections 419.020 and 419.030 printed [by itself,] in large plain English type, [and framed,] constantly and conspicuously suspended [in the office, barroom, saloon, reading, sitting and parlor room of his inn, and also a copy printed by itself, in ordinary sized plain English type, posted upon the inside of the entrance door of every public sleeping room of his inn] **at the guest registration desk and in every guest room of the lodging establishment**, shall be liable for the loss of any such articles aforesaid, suffered by any guest, unless such guest shall have first offered to deliver such property lost by him or her to such [innkeeper] **lodging establishment**, for custody in such [iron] safe, and such [innkeeper] **lodging establishment** shall have refused or omitted to take it and deposit it in such safe for its custody and to give such guest a receipt therefor.

419.030. LODGING ESTABLISHMENT NOT LIABLE FOR BAGGAGE, WHEN. — No [innkeeper] **lodging establishment** in this state shall be liable for the loss of any baggage or other property of a guest, caused by fire not intentionally produced by the [innkeeper] **lodging establishment** or [his] **its** servants, nor shall he be liable for the loss of any merchandise for sale or sample belonging to a guest, unless the guest shall have given written notice of having such merchandise for sale or sample in his possession after entering the [inn] **lodging establishment**,

nor shall the [innkeeper] **lodging establishment** be compelled to receive such guest with merchandise for sale or sample; but [innkeepers] **lodging establishment** shall be liable for the losses of their guests, caused by the theft of such [innkeeper] **lodging establishment** or [his] **its** servants, anything herein to the contrary notwithstanding.

419.040. RATES — DUTY TO POST. — It shall be the duty of every [hotel keeper] **lodging establishment** in this state to post a written or printed copy of the rates charged for [board and lodging by such hotel] **each guest room**, in each **guest room** and [office or lobby of such hotel or boarding house]; provided, that where a different rate is charged for different rooms in such [hotel] **lodging establishment** the rate posted in each room shall be the rate which shall apply to such room; and provided further, that this law shall not apply to [hotels] **lodging establishments** which do not have more than ten [boarders or roomers or] guests on an average each day.

Approved June 12, 2002

SB 1244 [HCS SB 1244]

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 continuation of a newborn hearing screening from a transferring facility to a receiving facility.

AN ACT to repeal section 191.925, RSMo, relating to the newborn hearing screening program, and to enact in lieu thereof one new section relating to the same subject.

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 (SOAE); 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 June 27, 2002

SB 1247 [SB 1247]

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 Kansas City Firefighters Pension Fund to recognize domestic relations orders.

AN ACT to amend chapter 87, RSMo, by adding thereto one new section relating to the division of certain pension benefits.

SECTION

- A. Enacting clause.
87.487. Fund subject to domestic relations order (Kansas City).

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

SECTION A. ENACTING CLAUSE.—Chapter 87, RSMo, is amended by adding thereto one new section, to be known as section 87.487, to read as follows:

87.487. FUND SUBJECT TO DOMESTIC RELATIONS ORDER (KANSAS CITY).— **The provisions of section 87.485 to the contrary notwithstanding, a pension fund for firefighters located in a home rule city with a population of more than four hundred thousand inhabitants and located in more than one county shall recognize a domestic relations order and pay pension benefits directly to a spouse or former spouse of a participant, if such domestic relations order assigns a spouse or former spouse all or a portion of a participant's pension benefits payable by the pension fund, is properly entered in a court of competent jurisdiction in accordance with the state's domestic relation's law and complies with the rules and procedures of the pension fund.**

Approved July 12, 2002

SB 1248 [CCS HS HCS SS SB 1248]

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

Creates the Schools of the Future Fund and provides various funding sources for it.

AN ACT to repeal sections 143.121, 143.811, 313.300, 447.532, 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, 470.350 and 542.301, RSMo, and to enact

in lieu thereof thirty-five new sections relating to certain funds for public elementary and secondary education, with an emergency clause.

SECTION

- A. Enacting clause.
- 32.068. Annual rate of interest to be calculated, director of revenue to apply rate, when.
- 32.069. Interest allowed and paid on refund or overpayment of interest paid in excess of annual interest rate.
- 136.320. Amnesty to apply to certain taxes — conditions for granting — payments to be deposited in schools of the future fund — rulemaking authority.
- 143.121. Missouri adjusted gross income.
- 143.122. Estimate of additional income tax revenues for fiscal year 2003 — transfer of \$27,000,000 into schools of the future fund from general revenue.
- 143.811. Interest on overpayment.
- 313.300. Unclaimed prizes — transfer to lottery proceeds fund and schools of the future fund.
- 313.301. \$5,000,000 transferred from lottery proceeds fund to schools of the future fund in fiscal year 2003.
- 338.500. Gross retail prescriptions, tax imposed, definitions.
- 338.501. Use of tax proceeds.
- 338.505. Formula for tax liability, rulemaking authority, appeals procedure.
- 338.510. Records to be maintained, form — report of gross receipts, information — confidentiality of information.
- 338.515. Effective date of tax.
- 338.520. Calculation of tax liability — notification to pharmacies.
- 338.525. Credit for gross receipts included in assessment for federal reimbursement allowance or nursing facility reimbursement allowance.
- 338.530. Offset against Medicaid payments due by pharmacy permitted, when.
- 338.535. Remittance to department — pharmacy reimbursement allowance fund created.
- 338.540. Notice requirements — unpaid or delinquent taxes, procedure for collection — failure to pay taxes, effect of.
- 338.545. Medicaid pharmacy dispensing fee, adjustment made, amount.
- 338.550. Annual health care cost impact study required, submission, contents — exemption from tax, when — expiration date.
- 447.532. Courts — public corporations — public authority — officers — political subdivisions holding intangible personal property for another presumed abandoned, when.
- 470.010. Estates escheat, when.
- 470.020. Disposition of unclaimed moneys — deemed unclaimed property, when — transfer to abandoned fund account — transfer to public schools.
- 470.030. Proceedings when moneys are not paid to state treasurer as required.
- 470.060. When lands transfer to state.
- 470.070. Scire facias to issue.
- 470.080. To be served, when.
- 470.130. Judgment for defendant, when.
- 470.150. Copy of record filed with state treasurer.
- 470.200. Court may order sale.
- 470.210. Proceeds paid into abandoned fund account.
- 470.220. State treasurer to keep record.
- 470.270. Money or effects involved in litigation — disposition — unclaimed property, state may bring action to recover, when, exceptions.
- 542.301. Disposition of unclaimed seized property — forfeiture to the state, when — allegedly obscene matter, how treated — appeal authorized.
1. Schools of the future fund created, use of funds.
- 470.040. Proceedings to recover money from state.
- 470.050. Court to order warrant to issue, when.
- 470.190. Bar against all claims.
- 470.230. Money in treasury escheats to state, when.
- 470.240. Investment of money.
- 470.250. State treasurer shall be custodian — disposition of interest.
- 470.260. Bond account kept — by whom.
- 470.280. Circuit court jurisdiction over escheat proceedings.
- 470.290. Actions by attorney general — disposition of money or property.
- 470.300. Notice of proceedings.
- 470.310. Service of process.
- 470.320. Class action — service notice by publication.
- 470.330. Claims to moneys or effects received by treasurer under escheat judgment.
- 470.340. Order directing payment to state treasurer — procedure.
- 470.350. Unclaimed escheat — disposition.
- B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 143.121, 143.811, 313.300, 447.532, 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, 470.350 and 542.301, RSMo, are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections 32.068, 32.069, 136.320, 143.121, 143.122, 143.811, 313.300, 313.301, 338.500, 338.501, 338.505, 338.510, 338.515, 338.520, 338.525, 338.530, 338.535, 338.540, 338.545, 338.550, 447.532, 470.010, 470.020, 470.030, 470.060, 470.070, 470.080, 470.130, 470.150, 470.200, 470.210, 470.220, 470.270, 542.301 and 1, to read as follows:

32.068. ANNUAL RATE OF INTEREST TO BE CALCULATED, DIRECTOR OF REVENUE TO APPLY RATE, WHEN. — **1.** The state treasurer shall calculate an annual rate of interest pursuant to this section and provide the calculated rate of interest to the director of revenue as determined by subsection 2 of this section.

2. Each calendar quarter the state treasurer shall calculate the annual rate of interest. The rate of interest shall be equal to the previous twelve-month annualized average rate of return on all funds invested by the state treasurer, rounded to the nearest one-tenth of one percent. The state treasurer shall provide such calculated rate to the director of revenue not later than thirty days prior to the end of each calendar quarter. The director of revenue shall apply the calculated rate of interest to all applicable situations during the next calendar quarter after the release of the calculated rate of interest.

3. Beginning January 1, 2003, the director of revenue shall apply the calculated rate of interest as determined by this section to all applicable situations.

4. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

32.069. INTEREST ALLOWED AND PAID ON REFUND OR OVERPAYMENT OF INTEREST PAID IN EXCESS OF ANNUAL INTEREST RATE. — **1.** Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment is not refunded within one hundred twenty days from the latest of the following dates:

(1) The last day prescribed for filing a tax return or refund claim, without regard to any extension of time granted;

(2) The date the return, payment, or claim is filed; or

(3) The date the taxpayer files for a credit or refund and provides accurate and complete documentation to support such claim.

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

136.320. 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 taxes due and owing 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 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 1 of this act, 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. 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.

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

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

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

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added under this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income under Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible under Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, except for any deduction for net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period not to exceed twenty years and carries backward for not more than two years.

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

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

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

(c) The amount necessary to prevent the taxation under sections 143.011 to 143.996 of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

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

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

(f) The portion of capital gain specified in subsection 3 of section 144.747, RSMo, that would otherwise be included in federal adjusted gross income; and

(g) The amount that would have been deducted in the computation of federal taxable income under Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted under Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002.

4. There shall be added to or subtracted from his federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

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

**143.122. ESTIMATE OF ADDITIONAL INCOME TAX REVENUES FOR FISCAL YEAR 2003—
TRANSFER OF \$27,000,000 INTO SCHOOLS OF THE FUTURE FUND FROM GENERAL REVENUE.
— In fiscal year 2003, the commissioner of administration shall estimate the amount of**

any additional state revenue received pursuant to section 143.121 and shall transfer an amount equal to twenty-seven million dollars of general revenue to the schools of the future fund created in section 1 of this act.

143.811. INTEREST ON OVERPAYMENT. — 1. Under regulations prescribed by the director of revenue, interest shall be allowed and paid at the rate determined by section 32.065, RSMo, on any overpayment in respect of the tax imposed by sections 143.011 to 143.996; except that, where the overpayment resulted from the filing of an amendment of the tax by the taxpayer after the last day prescribed for the filing of the return, interest shall be allowed and paid at the rate of six percent per annum. With respect to the part of an overpayment attributable to a deposit made pursuant to subsection 2 of section 143.631, interest shall be paid thereon at the rate in section 32.065, RSMo, from the date of the deposit to the date of refund. No interest shall be allowed or paid if the amount thereof is less than one dollar.

2. For purposes of this section:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day determined without regard to any extension of time granted the taxpayer;

(2) Any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year, and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him on the fifteenth day of the fourth month following the close of his taxable year to which such amount constitutes a credit or payment.

3. For purposes of this section with respect to any withholding tax:

(1) If a return for any period ending with or within a calendar year is filed before April fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be considered paid on April fifteenth of such succeeding calendar year.

4. If any overpayment of tax imposed by sections 143.011 to 143.996 is refunded within four months after the last date prescribed (or permitted by extension of time) for filing the return of such tax or within four months after the return was filed, whichever is later, no interest shall be allowed under this section on overpayment.

5. Any overpayment resulting from a carryback, including a net operating loss and a corporate capital loss, shall be deemed not to have been made prior to the close of the taxable year in which the loss arises.

6. Any overpayment resulting from a carryback of a tax credit, including but not limited to the tax credits provided in sections 253.557 and 348.432, RSMo, shall be deemed not to have been made prior to the close of the taxable year in which the tax credit was authorized. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to the provisions of this subsection and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

313.300. UNCLAIMED PRIZES — TRANSFER TO LOTTERY PROCEEDS FUND AND SCHOOLS OF THE FUTURE FUND. — 1. Unclaimed prize money shall be retained by the commission for the person entitled thereto for [one year] **one hundred eighty days** after the time at which the prize was awarded. If no claim is made for the prize within [such year] **one hundred eighty days**, the prize money shall be reverted to the state lottery fund.

2. **In fiscal year 2003, the lottery commission shall, transfer the amount received pursuant to this section to the lottery proceeds fund. In fiscal year 2003, the commissioner of administration shall transfer an equivalent amount from the lottery proceeds fund to the schools of the future fund created in section 1 of this act.**

313.301. \$5,000,000 TRANSFERRED FROM LOTTERY PROCEEDS FUND TO SCHOOLS OF THE FUTURE FUND IN FISCAL YEAR 2003. — In fiscal year 2003, there shall be transferred out of the lottery proceeds fund and deposited to the credit of the schools of the future fund created in section 1 of this act, five million dollars.

338.500. GROSS RETAIL PRESCRIPTIONS, TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon licensed retail pharmacies for the privilege of providing outpatient prescription drugs in this state. The tax is imposed upon the Missouri gross retail prescription receipts earned from filling outpatient retail prescriptions.

2. For purposes of sections 338.500 to 338.550:

(1) "Gross retail prescription receipts" shall mean all amounts received by a licensed pharmacy for its own account from the sale of outpatient prescription drugs in the state of Missouri but shall not include those sales shipped out of the state of Missouri and shall include the receipts from cost sharing, dispensing fees, and retail prescription drug sales;

(2) "Licensed pharmacy" shall have the same meaning as such term is defined in section 338.210;

(3) "Retail" means a sale for use or consumption and not for resale.

338.501. USE OF TAX PROCEEDS. — In fiscal year 2003, the amount generated by the tax imposed pursuant to section 338.500, less any amount paid pursuant to section 338.545, shall be used in the formula necessary to qualify for the calculations included in house bill 1102, section 2.325 through section 2.333 as passed by the ninety-first general assembly, second regular session.

338.505. FORMULA FOR TAX LIABILITY, RULEMAKING AUTHORITY, APPEALS PROCEDURE. — 1. Each licensed retail pharmacy's tax shall be based on a formula set forth in rules promulgated by the department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

2. The director of the department of social services or the director's designee, may prescribe the form and contents of any forms or other documents required by sections 338.500 to 338.550.

3. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules pursuant to this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

338.510. RECORDS TO BE MAINTAINED, FORM — REPORT OF GROSS RECEIPTS, INFORMATION — CONFIDENTIALITY OF INFORMATION. — 1. Each licensed retail pharmacy shall keep such records as may be necessary to determine gross retail prescription receipts.

2. The director of revenue may prescribe the form and contents of any forms or other documents required by this section.

3. Each licensed retail pharmacy shall report the gross retail prescription receipts to the department of revenue.

4. The department of revenue shall provide the department of social services with the information that is necessary to implement the provisions of sections 338.500 to 338.550.

5. The information obtained by the department of social services from the department of revenue shall be confidential and any employee of the department of social services who unlawfully discloses any such information for any other purpose, except as authorized by law, shall be subject to the penalties specified in section 32.057, RSMo.

338.515. EFFECTIVE DATE OF TAX. — The tax imposed by sections 338.500 to 338.550 shall become effective July 1, 2002, or the effective date of sections 338.500 to 338.550, whichever is later.

338.520. CALCULATION OF TAX LIABILITY — NOTIFICATION TO PHARMACIES. — 1. The determination of the amount of tax due shall be the monthly gross retail prescription receipts reported to the department of revenue multiplied by the tax rate established by rule by the department of social services. Such tax rate may be a graduated rate based on gross retail prescription receipts and shall not exceed a rate of six percent per annum of gross retail prescription receipts; provided, that such rate shall not exceed one-tenth of one percent per annum in the case of licensed pharmacies of which eighty percent or more of such gross receipts are attributable to prescription drugs that are delivered directly to the patient via common carrier, by mail, or a courier service.

2. The department of social services shall notify each licensed retail pharmacy of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

338.525. CREDIT FOR GROSS RECEIPTS INCLUDED IN ASSESSMENT FOR FEDERAL REIMBURSEMENT ALLOWANCE OR NURSING FACILITY REIMBURSEMENT ALLOWANCE. — If a pharmacy's gross retail prescription receipts are included in the revenue assessed by the federal reimbursement allowance or the nursing facility reimbursement allowance, the proportion of those taxes paid or the entire tax due shall be allowed as a credit for the pharmacy tax due pursuant to section 338.500.

338.530. OFFSET AGAINST MEDICAID PAYMENTS DUE BY PHARMACY PERMITTED, WHEN. — The director of the department of social services may offset the tax owed by a pharmacy against any Missouri Medicaid payment due such pharmacy, if the pharmacy requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the pharmacy an amount substantially equal to the assessment due from the pharmacy. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

338.535. REMITTANCE TO DEPARTMENT — PHARMACY REIMBURSEMENT ALLOWANCE FUND CREATED. — 1. The pharmacy tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the pharmacy to the department of social services. The remittance shall be made payable to the director of the department of revenue and shall be deposited in the state treasury to the credit of the "Pharmacy Reimbursement Allowance Fund" which is hereby created to provide payments for services related to the Medicaid pharmacy program. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 338.530 or a payment to the pharmacy reimbursement allowance fund shall be accepted as payment of the obligation set forth in section 338.500.

3. The state treasurer shall maintain records showing the amount of money in the pharmacy reimbursement allowance fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the pharmacy reimbursement allowance fund at the end of the biennium shall not revert to the credit of the general revenue fund.

338.540. NOTICE REQUIREMENTS—UNPAID OR DELINQUENT TAXES, PROCEDURE FOR COLLECTION — FAILURE TO PAY TAXES, EFFECT OF. — 1. The department of social services shall notify each pharmacy with a tax due of more than ninety days of the amount of such balance. If any pharmacy fails to pay its pharmacy tax within thirty days of such notice, the pharmacy tax shall be delinquent.

2. If any tax imposed pursuant to sections 338.500 to 338.550 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the pharmacy and compel the payment of such assessment in the circuit court having jurisdiction in the county where the pharmacy is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any pharmacy that fails to pay the tax imposed by section 338.500.

3. Failure to pay the tax imposed by section 338.500, RSMo, shall be grounds for denial, suspension, or revocation of a license granted pursuant to this chapter. The department of social services may request the board of pharmacy to deny, suspend, or revoke the license of any pharmacy that fails to pay such tax.

338.545. MEDICAID PHARMACY DISPENSING FEE, ADJUSTMENT MADE, AMOUNT. — 1. The Medicaid pharmacy dispensing fee shall be adjusted to include a supplemental payment amount equal to the tax assessment due plus ten percent.

2. The amount of the supplemental payment shall be adjusted once annually beginning July first or once annually after the initial start date of the pharmacy tax, whichever is later.

3. If the pharmacy tax required by sections 338.500 to 338.550 is declared invalid, the pharmacy dispensing fee for the Medicaid program shall be the same as the amount required on July 1, 2001.

338.550. ANNUAL HEALTH CARE COST IMPACT STUDY REQUIRED, SUBMISSION, CONTENTS—EXEMPTION FROM TAX, WHEN—EXPIRATION DATE. — 1. The pharmacy tax required by sections 338.500 to 338.550 shall be the subject of an annual health care cost impact study commissioned by the department of insurance to be completed prior to or on January 1, 2003 and each year the tax is in effect. The report shall be submitted to the speaker of the house, president pro-tem of the senate, and the governor. This study shall employ an independent economist and an independent actuary paid for by the state's department of social services. The department shall seek the advice and input from the department of social services, business health care purchasers, as well as health care insurers in the selection of the economist and actuary. This study shall assess the degree of health care costs shifted to individual Missourians and individual and group health plans resulting from this tax.

2. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

3. Sections 338.500 to 338.550 shall expire on June 30, 2003.

447.532. COURTS — PUBLIC CORPORATIONS — PUBLIC AUTHORITY — OFFICERS — POLITICAL SUBDIVISIONS HOLDING INTANGIBLE PERSONAL PROPERTY FOR ANOTHER PRESUMED ABANDONED, WHEN. — 1. **Notwithstanding the provisions of section 447.536,** all intangible personal property held **as of the effective date of this act** for the owner by any court, **including any receivership or custodianship under court supervision, or** public corporation, public authority, or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than [seven] **three** years [or five years as provided in section 447.536 is presumed] **is deemed abandoned and shall be turned over immediately to the treasurer pursuant to section 447.543.**

2. **Notwithstanding the provisions of section 447.536,** all intangible personal property held for the owner whose last known address is located in Missouri, by a public officer, official, agency, department, or court, of the United States or any state or local government or governmental subdivision, agency, or entity thereof that has remained unclaimed by the owner for more than [seven] **three** years [or five years as provided in section 447.536 is presumed] **is deemed abandoned and shall be turned over to the treasurer pursuant to section 447.543.** If no address is listed or if the address is outside this state, all intangible personal property held for the owner by such entities listed in this section and located in this state, or held for a holder that is located in this state, that has remained unclaimed by the owner for more than [seven] **three** years [or five years as provided in section 447.536 is presumed] **is deemed abandoned and shall be turned over immediately to the treasurer pursuant to section 447.543,** except as provided in section 447.547.

3. All intangible personal property referred to in this section is subject to the provisions of sections 447.500 to 447.595.

470.010. ESTATES ESCHEAT, WHEN. — If any person die intestate, seized of any real or personal property, leaving no heirs or representatives **currently** capable of inheriting the same; or, if upon final settlement of an executor or administrator, there is a balance in his **or her** hands belonging to some legatee or distributee who is a nonresident or who is not in a situation to receive the same and give a discharge thereof or who does not appear by himself **or herself** or agent to claim and receive the same; or, if upon final settlement of an assignee for the benefit of creditors, there shall remain in his **or her** possession any unclaimed dividends; or, if upon final report of any sheriff to the court, it is shown that the interests in the proceeds of the sale of land in partition of certain parties, who are absent from the state, who are nonresidents, who are not known or named in the proceedings, or who, from any cause, are not in a situation to receive the same, are in his **or her** hands unpaid and unclaimed; or, if, upon final settlement of the receiver of any company or corporation which has been doing business in this state, there is money in his **or her** hands unpaid and unclaimed, in each and every such instance such real and personal estate shall [escheat and vest in] **transfer to** the state, subject to and in accordance with the provisions of sections 470.010 to [470.260] **470.220 and sections 447.500 to 447.595, RSMo.**

470.020. DISPOSITION OF UNCLAIMED MONEYS — DEEMED UNCLAIMED PROPERTY, WHEN — TRANSFER TO ABANDONED FUND ACCOUNT — TRANSFER TO PUBLIC SCHOOLS. —

1. Within one year after the final settlement of any executor or administrator, assignee, sheriff or receiver, all moneys in his **or her** hands unpaid or unclaimed, as provided in section 470.010, shall, upon the order of the court in which the settlement is made, be paid to the state [director of revenue who shall issue his receipt therefor] **treasurer.**

2. [All moneys so received shall be deposited in the state treasury and credited to a fund, to be known and designated as "Escheats"] **Beginning January 1, 2003, all real and personal estate that transfers or has transferred to the state pursuant to section 470.010 shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be treated in the same manner as all other unclaimed property under such act.**

3. All moneys in the escheats fund on or after December 31, 2002, shall be transferred to the abandoned fund account created in section 447.543, RSMo, and the escheats fund shall be abolished. Any accounting information maintained by the commissioner of administration for moneys paid into the state treasury and all moneys from the sale of lands vested in the state shall be transferred to the unclaimed property division of the office of state treasurer.

4. The state treasurer shall remain custodian of any bonds purchased by the state board of fund commissioners prior to January 1, 2003, and shall deposit all interest received from such bonds into the abandoned fund account. The state treasurer, in consultation with the state board of fund commissioners, shall determine the use and disposition of proceeds from all such bonds purchased by the state board.

5. Beginning in fiscal year 2003 and for each subsequent fiscal year, the state treasurer shall transfer from the abandoned fund account to the public schools fund an amount equal to five percent of the annual amount transferred to the general revenue fund from the abandoned fund account net any transfers from the general revenue to the abandoned fund account.

470.030. PROCEEDINGS WHEN MONEYS ARE NOT PAID TO STATE TREASURER AS REQUIRED. — 1. The court having the settlement of the accounts of such executor or administrator, assignee, sheriff or receiver [upon the production of the receipt of the state director of revenue,] shall give credit for the amount thereof; but if the moneys are not paid to the state [director of revenue] **treasurer**, the prosecuting attorney of the county in which the executor or administrator, assignee, sheriff or receiver resides, shall, upon giving ten days' previous notice of his **or her** intention so to do, move the court to enter judgment against the executor or administrator, assignee, sheriff or receiver, and his **or her** sureties, or either of them, for the moneys in his **or her** possession, together with eight percent per annum thereon from the time the same should have been turned over to the state [director of revenue] **treasurer** until the rendition of the judgment.

2. The court shall determine the case in a summary manner, and if it finds the facts as stated in the motion to be true, and no valid and reasonable excuse for the delay is offered, shall enter judgment accordingly and adjudge the executor or administrator, assignee, sheriff or receiver to pay all costs of the proceedings.

470.060. WHEN LANDS TRANSFER TO STATE. — When the prosecuting attorney shall be informed, or have reason to believe, that any real estate within his **or her** county [has escheated] **should transfer** to the state, and such estate shall not have been sold according to law, within five years after the death of the person last seized, for the payment of the debts of the deceased, [he] **the prosecuting attorney** shall file an information in behalf of the state in the circuit court of the county in which such estate is situate, setting forth a description of the estate, the name of the person last lawfully seized, the names of the terre-tenants and persons claiming the same, if known, and the facts and circumstances in consequence of which such estate is claimed to have [escheated] **transferred** and alleging that, by reason thereof, the state of Missouri hath right to such estate.

470.070. SCIRE FACIAS TO ISSUE. — Such court shall award and issue a scire facias against such person, bodies politic or corporate, as shall be alleged in such information to hold, possess or claim such estate, requiring them to appear and show cause why such estate should not be [vested in] **sold and transferred** to the state, at the next term of such court.

470.080. TO BE SERVED, WHEN. — Such scire facias shall be served fifteen days before the return day thereof, and the court shall make an order, setting forth briefly the contents of such information, and requiring all persons interested in or claiming title to said estate to appear and

show cause, at the next term of said court, why the same shall not be [vested in] **sold and the proceeds transferred to** the state; which order shall be published for six weeks in some newspaper printed and published in the county in which such proceedings are had.

470.130. JUDGMENT FOR DEFENDANT, WHEN. — If it appear that the state has no title in such estate, the defendant shall recover his **or her** costs, to be taxed and certified by the clerk, provided that the court find, from the facts, that the title to such estate is in [him. The commissioner of administration shall,] **the defendant**. When such certificate of the clerk is filed in his **or her** office, [certify the claim to the state auditor, who shall issue a warrant therefor on the state treasurer, which shall be paid] **the state treasurer shall pay the certificate** as other demands on the treasury.

470.150. COPY OF RECORD FILED WITH STATE TREASURER. — Upon the return of such writ of possession, the prosecuting attorney shall cause the record and process to be exemplified under the seal of the court and deposit the same in the office of the [director of revenue] **state treasurer**; and he **or she** shall cause the transcript of the judgment to be recorded in the office of the recorder of the county in which such estate is situate; and such judgment shall preclude all parties and privies thereto, their heirs and assigns, so long as such judgment shall remain in force.

470.200. COURT MAY ORDER SALE. — Whenever **title to** any real estate [shall have escheated and the title thereto] **has** vested in the state, the circuit court of the county in which such estate is situate shall, upon the application of the prosecuting attorney of said county, order and direct said real estate to be sold; which sale shall be made by the sheriff of said county and shall be advertised and conducted in the same manner as shall by law be provided for the sale of real estate under execution.

470.210. PROCEEDS PAID INTO ABANDONED FUND ACCOUNT. — All moneys realized from the sale of any real estate, after paying all costs of such proceedings, and such compensation to the prosecuting attorney as shall be allowed by the court in which such order of sale is made, shall be paid by the sheriff into the state treasury within ninety days after the receipt thereof; and if said sheriff fail to pay said money into the state treasury within ninety days after the receipt thereof, [he] **the sheriff** shall be proceeded against in the same manner as is provided in section 470.030. Moneys so paid into the state treasury shall be **deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be** credited into the [fund to be known and designated as "Escheats"] **abandoned fund account**, and shall be [withdrawn or disposed of] **treated in the same manner** as other moneys paid into the state treasury under sections 470.010 to [470.260] **470.220**.

470.220. STATE TREASURER TO KEEP RECORD. — The [commissioner of administration] **state treasurer** shall keep just and accurate account of all money paid into the state treasury [and], all land vested in the state [as aforesaid] **pursuant to sections 470.010 to 470.220, and all proceeds received from the sale of such land**.

470.270. MONEY OR EFFECTS INVOLVED IN LITIGATION—DISPOSITION—UNCLAIMED PROPERTY, STATE MAY BRING ACTION TO RECOVER, WHEN, EXCEPTIONS. — **1. Notwithstanding any other provision of this chapter**, after the owner, [his] **the owner's** assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the state of Missouri for any service rendered or to be rendered in said state, or for any contract of

insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the state of Missouri or in connection with any cause in any United States court, or so paid into the custody of any depository, clerk, custodian, or other officer of such court, whether the same be afterwards transferred and deposited in the United States treasury or not, shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of [five] **three** successive years, or such moneys, refund of rates or premiums or effects remain unclaimed for the period heretofore, or hereafter, of [five] **three** successive years, from the time such moneys or property are ordered repaid or distributed by such courts, such moneys or property shall be [escheatable to the state of Missouri, and may be escheated] **deemed abandoned and transferred** to the state of Missouri [in the manner herein provided], with all interest and earnings actually accrued thereon to the date of [the judgment and decree for the escheat] **transfer** of the same. [The provisions of this section notwithstanding, this state may elect to take custody of such unclaimed property by instituting a proceeding pursuant to section 447.575, RSMo.] **All moneys or property transferring to the state pursuant to this section shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447, RSMo, and shall be treated in the same manner as all other unclaimed property under such act.**

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to subsection 3 of section 470.020 and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

542.301. DISPOSITION OF UNCLAIMED SEIZED PROPERTY — FORFEITURE TO THE STATE, WHEN — ALLEGEDLY OBSCENE MATTER, HOW TREATED — APPEAL AUTHORIZED.
— 1. [Unless the statute authorizing seizure provides otherwise,] Property which comes into the custody of an officer or of a court as the result of any seizure and which has not been **forfeited pursuant to any other provisions of law or** returned to the claimant shall be disposed of as follows:

(1) Stolen property, or property acquired in any other manner declared an offense by chapters 569 and 570, RSMo, but not including any of the property referred to in subsection 2 of this section, shall be delivered by order of court upon claim having been made and established, to the person who is entitled to possession;

[2] (a) The claim shall be made by written motion filed with the court with which a motion to suppress has been, or may be, filed. The claim shall be barred if not made within one year from the date of the seizure;

[3] (b) Upon the filing of such motion, the judge shall order notice to be given to all persons interested in the property, including other claimants and the person from whose possession the property was seized, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons whose address is unknown by publication in a newspaper of general circulation in the county. No property shall be delivered to any claimant unless all interested persons have been given a reasonable opportunity to appear and to be heard;

[4] (c) After a hearing, the judge shall order the property delivered to the person or persons entitled to possession, if any. The judge may direct that delivery of property required as evidence in a criminal proceeding shall be postponed until the need no longer exists;

[5] (d) A law enforcement officer having custody of seized property may, at any time that seized property has ceased to be useful as evidence, request that the prosecuting attorney of the county in which property was seized file a motion with the court of such county for the disposition of the seized property. If the prosecuting attorney does not file such motion within

sixty days of the request by the law enforcement officer having custody of the seized property, then such officer may request that the attorney general file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. **Such disposition may**, if the property is not claimed within one year from the date of the seizure or if no one establishes a right to it, and the seized property has ceased to be useful as evidence, [the judge authorized to order a delivery shall upon the judge's own motion, order] **include** a public sale of the property. **Pursuant to a motion properly filed and granted under this section**, the proceeds of [the] **any** sale, less necessary expenses of preservation and sale, shall be paid into the county treasury for the use of the county. If the property is not salable, the judge may order its destruction. **Notwithstanding any other provision of law, if no claim is filed within one year of the seizure and no motion pursuant to this section is filed within six months thereafter, and the seized property has ceased to be useful as evidence, the property shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543, RSMo;**

[6] (e) If the property is a living animal or is perishable, the judge may, at any time, order it sold at public sale. The proceeds shall be held in lieu of the property. A written description of the property sold shall be filed with the judge making the order of sale so that the claimant may identify the property. If the proceeds are not claimed within the time limited for the claim of the property, the proceeds shall be paid into the county treasury. If the property is not salable, the judge may order its destruction.

[2.] (2) Weapons, tools, devices, and substances other than motor vehicles, aircraft or watercraft, used by the owner or with the owner's consent as a means for committing felonies other than the offense of possessing burglary tools in violation of section 569.180, RSMo, and property, the possession of which is an offense under the laws of this state or which has been used by the owner, or used with the owner's acquiescence or consent, as a raw material or as an instrument to manufacture or produce anything the possession of which is an offense under the laws of this state, or which any statute authorizes or directs to be seized, other than lawfully possessed weapons seized by an officer incident to an arrest, shall be forfeited to the state of Missouri.

[3.] 2. The officer who has custody of the property shall inform the prosecuting attorney of the fact of seizure and of the nature of the property. The prosecuting attorney shall thereupon file a written motion with the court with which the motion to suppress has been, or may be, filed praying for an order directing the forfeiture of the property. If the prosecuting attorney of a county in which property is seized fails to file a motion with the court for the disposition of the seized property within sixty days of the request by a law enforcement officer, the officer having custody of the seized property may request the attorney general to file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. The signed motion shall be returned to the requesting agency. A motion may also be filed by any person claiming the right to possession of the property praying that the court declare the property not subject to forfeiture and order it delivered to the moving party.

[4.] 3. Upon the filing of a motion either by the prosecuting attorney or by a claimant, the judge shall order notice to be given to all persons interested in the property, including the person out of whose possession the property was seized and any lienors, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons of unknown address by publication in a newspaper of general circulation in the county. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of the person's claim to the property and upon the issue of whether or not it is subject to forfeiture.

[5.] 4. If the evidence is clear and convincing that the property in issue is in fact of a kind subject to forfeiture under this subsection, the judge shall declare it forfeited and order its destruction or sale. The judge shall direct that the destruction or sale of property needed as evidence in a criminal proceeding shall be postponed until this need no longer exists.

[6.] 5. If the forfeited property can be put to a lawful use, it may be ordered sold after any alterations which are necessary to adapt it to a lawful use have been made. If there is a holder of a bona fide lien against property which has been used as a means for committing an offense or which has been used as a raw material or as an instrument to manufacture or produce anything which is an offense to possess, who establishes that the use was without the lienholder's acquiescence or consent, the proceeds, less necessary expenses of preservation and sale, shall be paid to the lienholder to the amount of the lienholder's lien. The remaining amount shall be paid into the county treasury.

[7.] 6. If the property is perishable the judge may order it sold at a public sale or destroyed, as may be appropriate, prior to a hearing. The proceeds of a sale, less necessary expenses of preservation and sale, shall be held in lieu of the property.

[8.] 7. When a warrant has been issued to search for and seize allegedly obscene matter for forfeiture to the state, after an adversary hearing, the judge, upon return of the warrant with the matter seized, shall give notice of the fact to the prosecuting attorney of the county in which the matter was seized and the dealer, exhibitor or displayer and shall conduct further adversary proceedings to determine whether the matter is subject to forfeiture. If the evidence is clear and convincing that the matter is obscene as defined by law and it was being held or displayed for sale, exhibition, distribution or circulation to the public, the judge shall declare it to be obscene and forfeited to the state and order its destruction or other disposition; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without the judge having thoroughly examined each item. If the material to be seized is the same as or another copy of matter that has already been determined to be obscene in a criminal proceeding against the dealer, exhibitor, displayer or such person's agent, the determination of obscenity in the criminal proceeding shall constitute clear and convincing evidence that the matter to be forfeited pursuant to this subsection is obscene. Except when the dealer, exhibitor or displayer consents to a longer period, or by such person's actions or pleadings willfully prevents the prompt resolution of the hearing, judgment shall be rendered within ten days of the return of the warrant. If the matter is not found to be obscene or is not found to have been held or displayed for sale, exhibition or distribution to the public, or a judgment is not entered within the time provided for, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

[9.] 8. If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case should be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of a matter declared forfeited shall be postponed until the judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

[10.] 9. A determination of obscenity, pursuant to this subsection, shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter; except that dealer, distributor or displayer from which the obscene matter was seized for forfeiture to the state.

[11.] 10. When allegedly obscene matter or pornographic material for minors has been seized under a search warrant issued pursuant to subsection 2 of section 542.281 and the matter is no longer needed as evidence in a criminal proceeding the prosecuting attorney of the county in which the matter was seized may file a written motion with the circuit court of the county or judicial district in which the seizure occurred praying for an order directing the forfeiture of the matter. Upon filing of the motion, the court shall set a date for a hearing. Written notice of date, time, place and nature of the hearing shall be personally served upon the owner, dealer, exhibitor,

displayer or such person's agent. Such notice shall be served no less than five days before the hearing.

[12.] **11.** If the evidence is clear and convincing that the matter is obscene as defined by law, and that the obscene material was being held or displayed for sale, exhibition, distribution or circulation to the public or that the matter is pornographic for minors and that the pornographic material was being held or displayed for sale, exhibition, distribution or circulation to minors, the judge shall declare it to be obscene or pornographic for minors and forfeited to the state and order its destruction or other disposition. A determination that the matter is obscene in a criminal proceeding as well as a determination that such obscene material was held or displayed for sale, exhibition, distribution or circulation to the public or a determination that the matter is pornographic for minors in a criminal proceeding as well as a determination that such pornographic material was held or displayed for sale, exhibition, distribution or circulation to minors shall be clear and convincing evidence that such material should be forfeited to the state; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without a judge having thoroughly examined each item. A dealer, distributor or displayer shall have had reasonable opportunity to appear in opposition if the matter the prosecutor seeks to destroy is the same matter that formed the basis of a criminal proceeding against the dealer, distributor or displayer where the dealer, distributor or displayer has been charged and found guilty of holding or displaying for sale, exhibiting, distributing or circulating obscene material to the public or pornographic material for minors to minors. If the matter is not found to be obscene, or if obscene material is not found to have been held or displayed for sale, exhibition, distribution or circulation to the public, or if the matter is not found to be pornographic for minors or if pornographic material is not found to have been held or displayed for sale, exhibition, distribution or circulation to minors, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

[13.] **12.** If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case shall be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of matter declared forfeited shall be postponed until the judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

[14.] **13.** A determination of obscenity shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter.

[15.] **14.** An appeal by any party shall be allowed from the judgment of the court as in other civil actions.

15. All other property still in the custody of an officer or of a court as the result of any seizure and which has not been forfeited pursuant to this section or any other provision of law after three years following the seizure and which has ceased to be useful as evidence shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543, RSMo.

16. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and section 447.532, RSMo, shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 1 of this act.

SECTION 1. SCHOOLS OF THE FUTURE FUND CREATED, USE OF FUNDS. — The "Schools of the Future Fund" is hereby created in the state treasury. Moneys deposited in this fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the schools of the future fund shall be credited to the schools of the future fund. Appropriation of the moneys deposited into the schools of the future fund shall be used solely for the purpose of fully funding state aid to public schools pursuant to section 163.031, RSMo.

[470.040. PROCEEDINGS TO RECOVER MONEY FROM STATE. — Within twenty-one years after any money has been paid to the state director of revenue by an executor or administrator, assignee, sheriff or receiver, any person who appears and claims the same may file his petition in the court in which the final settlement of the executor or administrator, assignee, sheriff or receiver was had, stating the nature of his claim and praying that the money be paid to him, a copy of which petition shall be served upon the prosecuting attorney, who shall file an answer to the same.]

[470.050. COURT TO ORDER WARRANT TO ISSUE, WHEN. — The court shall examine the claim, and the allegations and proofs, and if it finds that the person is entitled to any money so paid to the state it shall order the commissioner of administration to issue his warrant on the state treasurer for the amount of the claim, but without interest or costs; a copy of which order under seal of the court is a sufficient voucher for issuing the warrant.]

[470.190. BAR AGAINST ALL CLAIMS. — After five years all persons, except those who are suffering under a legal disability, shall be forever debarred and precluded from setting up title or claim to any estate which has vested in the state under the provisions of sections 470.010 to 470.260.]

[470.230. MONEY IN TREASURY ESCHEATS TO STATE, WHEN. — All moneys paid into the state treasury under the provisions of sections 470.010 to 470.260, after remaining therein unclaimed for twenty-one years, shall escheat and vest absolutely in the state and be, on the order of the board of fund commissioners, transferred to the public school fund.]

[470.240. INVESTMENT OF MONEY. — The state board of fund commissioners shall invest all moneys paid into the state treasury under the provisions of sections 470.010 to 470.260 that have accumulated, or may hereafter accumulate, in the state treasury in registered United States government and state of Missouri bonds, at not less than par value, and shall at all times keep said fund so invested, provided that said board shall keep in the state treasury in cash the amount appropriated by the general assembly each biennium to pay claims duly approved under the provisions of sections 470.040 and 470.050.]

[470.250. STATE TREASURER SHALL BE CUSTODIAN — DISPOSITION OF INTEREST. — The state treasurer shall be the custodian of the bonds purchased under section 470.240, and shall deposit all interest received from the bonds into the escheat fund, which interest shall be subject to investment and may be transferred to the public school fund upon the order of the board of fund commissioners.]

[470.260. BOND ACCOUNT KEPT — BY WHOM. — The state board of fund commissioners shall keep an account of all bonds purchased by the fund commissioners and turned over to the state treasurer, and the board of fund commissioners shall cause to be certified to the state auditor a statement of all bonds purchased under the provisions of sections 470.240 to 470.260.]

[470.280. CIRCUIT COURT JURISDICTION OVER ESCHEAT PROCEEDINGS. — Whenever an escheat has occurred, or shall occur, of any such moneys, or effects so paid into or deposited in the custody of, or under the control of, any court of the state of Missouri, or any United States court, or in the custody of any depository, clerk, custodian, or other officer of such court, the circuit court of the county in which such court of the state of Missouri or United States court sits, or the circuit court of Cole County, shall have jurisdiction to ascertain if an escheat has occurred, and to enter a judgment or decree for escheat in favor of the state of Missouri.]

[470.290. ACTIONS BY ATTORNEY GENERAL — DISPOSITION OF MONEY OR PROPERTY.

— Such escheat action or proceeding shall, at the direction of the attorney general of the state of Missouri, be instituted and determined by an action at law or a proceeding in equity in the circuit court aforesaid, and such action at law or proceeding in equity shall be brought by the attorney general of the state of Missouri in the name and at the relation of the state of Missouri. The clerk, custodian, or other officer of the court having custody of such moneys or property shall be named a defendant in such action. After a decree for escheat in favor of the state of Missouri, the said attorney general shall take such action in the court wherein any such moneys or property are held as may be required to cause the same to be delivered to the state treasurer, and the same shall be by the treasurer preserved and kept in a separate fund to be known and designated as "Escheats".]

[470.300. NOTICE OF PROCEEDINGS. — At any time prior to the institution of an action or

proceeding by the attorney general on behalf of the state of Missouri as herein provided, said attorney general shall serve or cause to be served on the officer, clerk or custodian of such moneys or fund a notice, in writing, that such fund, designating it, is seized as an escheat fund for the state of Missouri, which notice shall contain a statement that a certain action or proceeding is being instituted and commenced for the escheat of the same and if said fund has been transferred to any other custodian or to the treasury of the United States, then a like notice shall be served on such other custodian and if the fund be transferred to the treasury of the United States, then a like notice shall be personally served on the attorney general of the United States.]

[470.310. SERVICE OF PROCESS. — Upon the institution and commencement of such

action or proceeding by said attorney general at the relation of and for and on behalf of the state of Missouri for the escheat of such funds, proper service of process and summons shall be had on all parties defendant as in other actions and if personal service cannot be had as by law provided in other cases, the defendants shall be served by publication as in other cases.]

[470.320. CLASS ACTION — SERVICE NOTICE BY PUBLICATION. — 1. If persons

constituting the owners, their assignees, personal representatives, grantees, heirs, devisees or other successors of such moneys or funds, to be made parties defendant in such action or proceeding for escheat, are so numerous as to render it impossible or impracticable to bring them all before the court, and to serve them all with process as herein provided for, such of them, if living, or if any of them be not living, their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors, as will fairly insure adequate representation of all, may be sued and served with process as a class. Whenever such action or proceeding is instituted against defendants as representatives of a class, the petition or bill in equity shall allege such facts as shall show that the defendants specifically named, if living, and if any of them be not living, then his unknown assignee, personal representative, grantee, heirs, devisees, or other successors, and served with process as herein provided have been fairly chosen and adequately and fairly represent the whole class. The state shall be required to prove such allegations and it shall not be sufficient to prove such facts by the admission or admissions of the defendants who have entered their appearance.

2. If the proof shows that every person to be bound by the judgment or decree is fairly and adequately represented, a judgment or decree of escheat for the entire funds may be entered, notwithstanding the fact that the defendant or defendants make default, but in such case the state shall be required to prove its case and, if the court finds that a reasonable necessity therefor exists, it may appoint an attorney to represent the defendants and allow him a reasonable attorney's fee to be taxed as costs in the case. The costs of such action shall be paid from funds appropriated by an act of the legislature of the state of Missouri.

3. Service by publication shall be allowed in such escheat class action or proceeding and if the defendant or defendants so served do not appear, judgment of escheat may be rendered affecting said moneys and funds and declaring the same to escheat to the state of Missouri.

4. The attorney general desiring service by publication for such class action or proceeding shall file an application with the circuit judge or clerk of the said circuit court verified by his oath for an order of publication. The application shall show why service cannot be had as in other cases, such as personal service, or by publication as provided in other cases, and shall show that the owners of such moneys or funds and their unknown assignees, personal representatives, grantees, heirs, devisees or other successors are so very numerous as to render it impossible or impracticable to bring them all before the court or to serve them with process as provided for in other cases under the civil code of Missouri, and shall show that the defendants specifically named in the petition or bill in equity have been fairly chosen and adequately and fairly represent the whole class and said attorney general, as affiant, shall allege in said application that he has exercised reasonable diligence to ascertain the whereabouts of the owners of such moneys or funds, including their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors, and that after so doing he has been unable to locate their whereabouts.

5. The judge or clerk, after the filing of said application, shall issue an order of publication of notice to the named defendants, if they be living, and if any of them be not living, then to their unknown assignees, personal representatives, grantees, heirs, devisees or other successors, and to all claimants of said moneys or funds whomsoever, notifying them of the commencement of the action, stating briefly the facts and circumstances in consequence of which such moneys, refund of rates, or premiums or effects is claimed to have escheated and alleging that by reason thereof the state of Missouri has the right to such moneys, refund of rates, or premiums or effects, and describing the moneys or property sought to be escheated to the state of Missouri, giving a brief description of the origin of said moneys or funds to be thereby affected and why the same has not been distributed. And, notifying all such persons that the action is a class action and setting forth the approximate number of owners of such fund, stating that it is impossible or impracticable to name and designate all of such owners because of the fact that they are too numerous to name.

6. The notice shall also contain the name of the court and the name of the parties who are named in said suit, including the unknown assignees, personal representatives, grantees, heirs, devisees or other successors of the named defendants and of all the other claimants whomsoever of such moneys or funds, and shall state the name and address of the attorney general representing the state, as a party plaintiff, and giving the time, which shall be at least forty-five days after the date of the first publication, within which the defendants are required to appear and defend, and shall notify such defendants, their unknown assignees, personal representatives, grantees, heirs, devisees, or other successors and all claimants whomsoever that in case of their failure to do so, judgment by default decreeing that all of such moneys or funds be escheated to the state of Missouri will be rendered against them.

7. Such notice shall be published at least once each week for four successive weeks in some newspaper published in the county where suit is instituted, if there be a newspaper published there, which the attorney general may designate, if not, then in some newspaper published in the state as designated by the judge of said circuit court as most likely to give notice to the persons to be notified.

8. In such action or proceeding for the escheat of such moneys or funds, except for class actions as herein provided, personal service shall be had on those defendants whose whereabouts are known and can be served within the state of Missouri, and for the defendants who are known and who come within the provisions for service by publication as provided by the civil code of Missouri, service on such defendants and their unknown assignees, personal representatives, grantees, heirs, devisees or other successors shall be had as in other civil actions, and in class actions or proceedings where the defendants are sued as a class, service on them shall be had by publication as herein provided.]

[470.330. CLAIMS TO MONEYS OR EFFECTS RECEIVED BY TREASURER UNDER ESCHAT JUDGMENT. — 1. Within two years after any moneys, refund of rates or premiums, or effects are received by the Missouri state treasurer by reason of a judgment or decree for escheat in favor of the state of Missouri, any person who appears and claims the same or a part of the same may file his petition in the court in which the judgment or decree for escheat was rendered, stating the nature of his claim, showing he is entitled to the same and praying that such moneys or effects be paid to him, a copy of which petition shall be personally served upon the attorney general of the state of Missouri, who shall file answer to the same or make any other defense or take any such action as he deems necessary.

2. The court shall hear evidence and examine the said claim, and the allegations and proof and if it finds that such person is entitled to any of the moneys, or effects, so paid into the state treasury, it shall order a state warrant to be issued as provided by law for the amount of said claim, but without interest or costs after the same was paid into the said state treasury; a duly certified copy of which order, under seal of the court, shall be a sufficient voucher for issuing such warrant.]

[470.340. ORDER DIRECTING PAYMENT TO STATE TREASURER — PROCEDURE. — 1. Whenever an escheat of funds mentioned in sections 470.270 to 470.350 shall occur, or be supposed to occur, the attorney general of the state may, if he so elects, file in the court in which such funds are deposited or under whose jurisdiction same are being held, a motion, petition or other proper pleading praying for an order or judgment of said court directing the payment of said funds to the state treasurer. Notice of the filing of such pleading shall be given to such parties and in such manner as the law and the orders of such court shall require. If said order is made as prayed for, the state treasurer shall receive said funds and shall keep same in a separate fund to be known and designated "Escheats".

2. Any person may appear and claim said funds or a part of same within the time and in the same manner as provided by section 470.330, and like proceedings shall be had upon such application as in said section provided.

3. The proceeding authorized by this section may be instituted and prosecuted in lieu of the proceedings heretofore authorized by sections 470.270 to 470.350 or in addition to such other proceedings.]

[470.350. UNCLAIMED ESCHAT — DISPOSITION. — All moneys, refund of rates or premiums or effects paid into the state treasury under the provisions of sections 470.270 to 470.350, after remaining therein unclaimed for a period of two years, shall escheat and vest absolutely in the state of Missouri and shall thereafter be used and appropriated as other escheat property.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure that adequate funding is available to fully fund the school foundation formation of this 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 19, 2002

SB 1266 [SCS SB 1266]

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

Creates felony for sale or distribution of gray market cigarettes.

AN ACT to repeal sections 149.200, 149.203, 149.206, 149.212 and 149.215, RSMo, relating to sale of cigarettes, and to enact in lieu thereof five new sections relating to the same subject, with penalty provisions.

SECTION

- A. Enacting clause.
- 149.200. Illegal activities related to cigarettes and cigarette labeling — penalty.
- 149.203. Revocation or suspension of a wholesaler's license, when — civil penalty, when — cigarettes deemed contraband, when.
- 149.206. Violation deemed unlawful trade practice.
- 149.212. Director to enforce provisions of sections 149.200 to 149.215 — attorney general's concurrent power — injunctive relief available, when.
- 149.215. Severability clause.
- 149.200. Illegal activities related to cigarettes and cigarette labeling — penalty.
- 149.203. Revocation or suspension of a wholesaler's license, when — civil penalty, when — cigarettes deemed contraband, when.
- 149.206. Violation deemed unlawful trade practice.
- 149.212. Director to enforce provisions of sections 149.200 to 149.215 — attorney general's concurrent power — injunctive relief available, when.
- 149.215. Severability clause.

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

SECTION A. ENACTING CLAUSE. — Sections 149.200, 149.203, 149.206, 149.212 and 149.215, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 149.200, 149.203, 149.206, 149.212 and 149.215, to read as follows:

149.200. ILLEGAL ACTIVITIES RELATED TO CIGARETTES AND CIGARETTE LABELING — PENALTY. — **1. It is unlawful for any person to:**

(1) Sell or distribute in this state, to acquire, hold, own, possess or transport for sale or distribution in this state, or to import, or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and implementing regulations, including but not limited to the filing of ingredients lists pursuant to Section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a); the permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333); the rotation of label statements pursuant to Section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335(c)); restrictions on the importation, transfer and sale of previously exported tobacco products pursuant to Section 9302 of Public Law 105-33, the Balanced Budget Act of 1997, as amended; requirements of Title IV of Public Law 106-476, the Imported Cigarette Compliance Act of 2000; or

(2) Alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(a) Any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise warning statement in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333).

2. It shall be unlawful for any person to affix any tax stamp or meter impression required pursuant to this chapter to the package of any cigarettes that does not comply with the requirements of subdivision (1) of subsection 1 of this section or that is altered in violation of subdivision (2) of subsection 1 of this section.

3. This section shall not apply to cigarettes allowed to be imported or brought into the United States for personal use, or to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; provided, however, that this act shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

4. Any person who violates this section, whether acting knowingly or recklessly, is guilty of a class D felony.

5. As used in this section, "package" means a pack, box, carton or container of any kind in which cigarettes are offered for sale, sold or otherwise distributed to consumers.

149.203. REVOCATION OR SUSPENSION OF A WHOLESALER'S LICENSE, WHEN — CIVIL PENALTY, WHEN — CIGARETTES DEEMED CONTRABAND, WHEN. — 1. The director may revoke or suspend the license or licenses of any wholesaler pursuant to the procedures set forth in section 149.035 upon finding a violation of section 149.200, or any implementing rule promulgated by the director pursuant to this chapter. In addition, the director may impose on any person a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes involved or five thousand dollars, upon finding a violation by such person of sections 149.200 to 149.215, or any implementing rule promulgated by the director pursuant to this chapter.

2. Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of sections 149.200 to 149.215 or sections 196.1000 to 196.1003, RSMo, shall be deemed contraband pursuant to section 149.055 and are subject to seizure and forfeiture as provided therein. Any cigarettes shall be deemed contraband whether the violation of sections 149.200 to 149.215 is knowing or otherwise.

149.206. VIOLATION DEEMED UNLAWFUL TRADE PRACTICE. — A violation of sections 149.200 to 149.215 shall constitute an unlawful trade practice as provided in section 407.020, RSMo, and in addition to any remedies or penalties set forth in sections 149.200 to 149.215, shall be subject to any remedies or penalties available for a violation of that section.

149.212. DIRECTOR TO ENFORCE PROVISIONS OF SECTIONS 149.200 TO 149.215 — ATTORNEY GENERAL'S CONCURRENT POWER — INJUNCTIVE RELIEF AVAILABLE, WHEN. — Sections 149.200 to 149.215 shall be enforced by the director provided, that at the request of the director or the director's duly authorized agent, the state highway patrol and all local police authorities shall enforce the provisions of sections 149.200 to 149.215. The attorney general has concurrent power with the prosecuting attorneys of the states to enforce the provisions of sections 149.200 to 149.215. Any person who sells, distributes, or manufactures cigarettes and sustains direct economic or commercial injury as a result of a violation of sections 149.200 to 149.215 may bring an action in good faith for appropriate injunctive relief.

149.215. SEVERABILITY CLAUSE. — If any provision of sections 149.200 to 149.212 is held invalid, the remainder of such sections shall not be affected.

[149.200. ILLEGAL ACTIVITIES RELATED TO CIGARETTES AND CIGARETTE LABELING

—PENALTY.— 1. It is unlawful for any person to:

(1) Sell or distribute in this state, to acquire, hold, own, possess or transport for sale or distribution in this state, or to import, or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and implementing regulations, including but not limited to the filing of ingredients lists pursuant to Section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a); the permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333); the rotation of label statements pursuant to Section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335(c)); restrictions on the importation, transfer and sale of previously exported tobacco products pursuant to Section 9302 of Public Law 105-33, the Balanced Budget Act of 1997, as amended; requirements of Title IV of Public Law 106-476, the Imported Cigarette Compliance Act of 2000; or

(2) Alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(a) Any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise warning statement in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333).

2. It shall be unlawful for any person to affix any tax stamp or meter impression required pursuant to this chapter to the package of any cigarettes that does not comply with the requirements of subdivision (1) of subsection 1 of this section or that is altered in violation of subdivision (2) of subsection 1 of this section.

3. This section shall not apply to cigarettes allowed to be imported or brought into the United States for personal use, or to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; provided, however, that this act shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

4. Any person who violates this section, whether acting knowingly or recklessly, is guilty of a class D felony.

5. As used in this section, "package" means a pack, box, carton or container of any kind in which cigarettes are offered for sale, sold or otherwise distributed to consumers.]

[149.203. REVOCATION OR SUSPENSION OF A WHOLESALER'S LICENSE, WHEN —CIVIL PENALTY, WHEN — CIGARETTES DEEMED CONTRABAND, WHEN. — 1. The director may

revoke or suspend the license or licenses of any wholesaler pursuant to the procedures set forth in section 149.035 upon finding a violation of section 149.200, or any implementing rule promulgated by the director pursuant to this chapter. In addition, the director may impose on any person a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes involved or five thousand dollars, upon finding a violation by such person of sections 149.200 to 149.215, or any implementing rule promulgated by the director pursuant to this chapter.

2. Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of sections 149.200 to 149.215 or sections 196.1000 to 196.1003, RSMo, shall be deemed contraband pursuant to section 149.055 and are subject to seizure and forfeiture as provided therein. Any cigarettes shall be deemed contraband whether the violation of sections 149.200 to 149.215 is knowing or otherwise.]

[149.206. VIOLATION DEEMED UNLAWFUL TRADE PRACTICE. — A violation of sections 149.200 to 149.215 shall constitute an unlawful trade practice as provided in section 407.020, RSMo, and in addition to any remedies or penalties set forth in sections 149.200 to 149.215, shall be subject to any remedies or penalties available for a violation of that section.]

[149.212. DIRECTOR TO ENFORCE PROVISIONS OF SECTIONS 149.200 TO 149.215 — ATTORNEY GENERAL'S CONCURRENT POWER — INJUNCTIVE RELIEF AVAILABLE, WHEN. — Sections 149.200 to 149.215 shall be enforced by the director provided, that at the request of the director or the director's duly authorized agent, the state highway patrol and all local police authorities shall enforce the provisions of sections 149.200 to 149.215. The attorney general has concurrent power with the prosecuting attorneys of the states to enforce the provisions of sections 149.200 to 149.215. Any person who sells, distributes, or manufactures cigarettes and sustains direct economic or commercial injury as a result of a violation of sections 149.200 to 149.215 may bring an action in good faith for appropriate injunctive relief.]

[149.215. SEVERABILITY CLAUSE. — If any provision of sections 149.200 to 149.212 is held invalid, the remainder of such sections shall not be affected.]

Approved July 12, 2002

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