SB 1 [SCS#2 SB 1]

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

Requires boating safety identification card to operate watercraft for certain individuals

AN ACT to amend chapter 306, RSMo, by adding thereto three new sections relating to boating safety.

SECTION
A. Enacting clause.
306.127. Boating safety identification card required, when, requirements, fee — inapplicable, when.
306.128. Boating offenses, offender requirements.
306.129. Rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Chapter 306, RSMo, is amended by adding thereto three new sections, to be known as sections 306.127, 306.128, and 306.129, to read as follows:

306.127. BOATING SAFETY IDENTIFICATION CARD REQUIRED, WHEN, REQUIREMENTS, FEE — INAPPLICABLE, WHEN. — 1. Beginning January 1, 2005, every person born after January 1, 1984, or as required pursuant to section 306.128, operates a vessel on the lakes of this state shall possess, on the vessel, a boating safety identification card issued by the Missouri state water patrol or its agent which shows that he or she has:

(1) Successfully completed a boating safety course approved by the National Association of State Boating Law Administrators and certified by the Missouri state water patrol. The boating safety course may include a course sponsored by the United States Coast Guard Auxiliary or the United States Power Squadron. The Missouri state water patrol may appoint agents to administer a boater education course or course equivalency examination and issue boater identification cards under guidelines established by the water patrol. The Missouri state water patrol shall maintain a list of approved courses; or

(2) Successfully passed an equivalency examination prepared by the Missouri state water patrol and administered by the Missouri state water patrol or its agent. The equivalency examination shall have a degree of difficulty equal to, or greater than, that of the examinations given at the conclusion of an approved boating safety course; or

(3) A valid master's, mate's, or operator's license issued by the United States Coast Guard.

2. The Missouri state water patrol or its agent shall issue a permanent boating safety identification card to each person who complies with the requirements of this section which is valid for life unless invalidated pursuant to law.

3. The Missouri state water patrol may charge a fee for such card or any replacement card that does not substantially exceed the costs of administrating this section. The Missouri state water patrol or its designated agent shall collect such fees. These funds shall be forwarded to general revenue.

4. The provisions of this section shall not apply to any person who:

(1) Is licensed by the United States Coast Guard to serve as master of a vessel;

(2) Operates a vessel only on a private lake or pond that is not classified as waters of the state;

(3) Until January 1, 2006, is a nonresident who is visiting the state for sixty days or less;

(4) Is participating in an event or regatta approved by the water patrol;

(5) Is a nonresident who has proof of a valid boating certificate or license issued by another state if the boating course is approved by the National Association of State Boating Law Administrators (NASBLA);

(6) Is exempted by rule of the water patrol;

(7) Is currently serving in any branch of the United States armed forces, reserves, or Missouri national guard, or any spouse of a person currently in such service; or

(8) Has previously successfully completed a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA).

5. The Missouri state water patrol shall inform other states of the requirements of this section.

6. No individual shall be detained or stopped strictly for the purpose of checking for said boating safety identification card.

306.128. BOATING OFFENSES, OFFENDER REQUIREMENTS. — Beginning January 1, 2005, any person convicted of an offense pursuant to section 306.110, 306.111, 306.112, 306.127, 306.132, or 306.141 shall:

(1) Enroll in and successfully complete, at his or her own expense, a boating safety education course that meets minimum standards established by the water patrol by rule;

(2) File with the court proof of successful completion of such course and submit a certified copy to the water patrol; and

(3) Not operate a vessel until such filing.

306.129. RULEMAKING AUTHORITY. — 1. The Missouri state water patrol is authorized to promulgate such rules as are necessary to effectuate the provisions of sections 306.127 and 306.128.

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, 2003, shall be invalid and void.

Approved June 26, 2003

SB 4 [SCS SB 4]

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 Antiterrorism Fund and Fight Terrorism license plate.

AN ACT to amend chapters 41 and 301, RSMo, by adding thereto two new sections relating to antiterrorism.

SECTION

A. Enacting clause.

41.033. Antiterrorism fund created, purpose — reversion to general revenue prohibited — governor to direct expenditures — antiterrorism activities defined.

301.3123. Fight Terrorism special license plates, application, fees.

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

SECTION A. ENACTING CLAUSE. — Chapters 41 and 301, RSMo, are amended by adding thereto two new sections, to be known as sections 41.033 and 301.3123, to read as follows:

41.033. ANTITERRORISM FUND CREATED, PURPOSE — REVERSION TO GENERAL REVENUE PROHIBITED — GOVERNOR TO DIRECT EXPENDITURES — ANTITERRORISM ACTIVITIES DEFINED. — 1. The "Antiterrorism Fund" is hereby established within the state treasury. The state treasurer shall be custodian of the fund, in accordance with sections 30.170 and 30.180, RSMo, and shall make disbursements from said fund for the purposes enumerated in subsection 2 of this section. All contributions derived from section 301.3123, RSMo, private donations and grants, or any appropriations made by the general assembly, shall be placed in the antiterrorism fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the antiterrorism fund shall not revert to the general revenue fund. Interest accruing to the antiterrorism fund shall be part of the fund.

2. The antiterrorism fund shall, upon appropriation, be used by the Missouri office of homeland security for antiterrorism activities. Expenditures from the fund shall be made upon the direction of the governor for antiterrorism activities. As used in this section, the term "antiterrorism activities" means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, and public health agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and public health personnel, and hazardous materials and other equipment expenditures.

301.3123. FIGHT TERRORISM SPECIAL LICENSE PLATES, APPLICATION, FEES. — 1. Any vehicle owner may apply for "FIGHT TERRORISM" 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 an annual twenty-five dollar contribution to the antiterrorism fund established pursuant to section 41.033, RSMo, the vehicle owner may apply for the "FIGHT TERRORISM" plate. If the contribution is made directly to the Missouri office of homeland security it shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the "FIGHT TERRORISM" 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 "FIGHT TERRORISM" 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 "FIGHT TERRORISM" 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 "FIGHT TERRORISM" plate shall bear an emblem prescribed by the director of revenue and shall have the words "FIGHT TERRORISM" in place of the words "SHOW-ME STATE". The insignia shall be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue. Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white

background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130.

2. A vehicle owner, who was previously issued a "FIGHT TERRORISM" license plate authorized by this section but who does not provide proof of the annual contribution at a subsequent time of registration, shall be issued a new plate which does not bear the emblem or motto "FIGHT TERRORISM", as otherwise provided by law.

3. The director of revenue may promulgate rules and regulations for the administration of this section, and shall design all necessary forms required by 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, 2003, shall be invalid and void.

Approved July 11, 2003

SB 5 [HS HCS SS SCS SB 5]

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

Makes numerous changes to sentencing laws

AN ACT to repeal sections 56.807, 84.570, 217.362, 217.750, 217.760, 478.610, 513.653, 556.061, 557.036, 558.011, 558.016, 558.019, 559.026, 559.115, 565.081, 565.082, 565.083, 568.045, 570.030, 570.040, 571.030, 589.400, 589.407, 589.414, and 595.209, RSMo, and to enact in lieu thereof twenty-eight new sections relating to crime, with penalty provisions and an emergency clause.

SECTION

A. Enacting clause.
56.807. Local payments, amounts — prosecuting attorneys and circuit attorneys' retirement system fund created — donations may be accepted.
84.570. Police force — qualifications — competitive examinations — eligible list — rules by board (Kansas City).
217.362. Program for offenders with substance abuse addiction — eligibility, disposition, placement — completion, effect.
217.750. Probation services provided to circuit courts, when.
217.760. Probation and parole officers furnished to circuit courts, when — presentence and preparole investigations — requirements.
478.610. Circuit No. 13, number of judges, divisions — when judges elected — additional associate circuit judge for Boone County, when.
488.026. Surcharge for all criminal cases, amount — county ordinance defined — collection and deposit of funds.
488.5026. Two-dollar surcharge for all criminal cases, funds to be deposited in inmate security fund.
513.653. Peace officers using federal forfeiture system, audit of federal seizure proceeds — copies provided to whom — violation, penalty.
556.061. Code definitions.
557.036. Role of court and jury in sentencing — two stages of trial — punishment assessed by jury, when.
558.011. Sentence of imprisonment, terms — conditional release.
558.016. Extended terms for recidivism — definitions — persistent misdemeanor offender.
558.019. Prior felony convictions, minimum prison terms — prison commitment defined — dangerous felony, minimum term prison term, how calculated — sentencing commission created, members, duties —

recommended sentences, distribution — report — expenses — cooperation with commission — restorative justice methods.
559.026. Detention condition of probation.
559.115. Appeals, probation not to be granted, when — probation granted after delivery to department of corrections, time limitation, assessment — one hundred twenty day program — notification to state, when, hearing — no probation in certain cases.
565.081. Assault of a law enforcement officer or emergency personnel in the first degree, definition, penalty.
565.082. Assault of a law enforcement officer or emergency personnel in the second degree, definition, penalty.
565.083. Assault of a law enforcement officer or emergency personnel in the third degree, definition, penalty.
565.350. Tampering with a prescription or a drug prescription order, crime of — penalty.
568.045. Endangering the welfare of a child in the first degree, penalties.
570.030. Stealing — penalties.
570.040. Stealing, third offense.
571.030. Unlawful use of weapons — exceptions — penalties.
589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration.
589.407. Registration, required information.
589.414. Registrant's duties on change of address — time limitations for certain notifications.
595.209. Rights of victims and witnesses — written notification, requirements.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 56.807, 84.570, 217.362, 217.750, 217.760, 478.610, 513.653, 556.061, 557.036, 558.011, 558.016, 558.019, 559.026, 559.115, 565.081, 565.082, 565.083, 568.045, 570.030, 570.040, 571.030, 589.400, 589.407, 589.414, and 595.209, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 56.807, 84.570, 217.362, 217.750, 217.760, 478.610, 488.026, 488.5026, 513.653, 556.061, 557.036, 558.011, 558.016, 558.019, 559.026, 559.115, 565.081, 565.082, 565.083, 565.350, 568.045, 570.030, 570.040, 571.030, 589.400, 589.407, 589.414, and 595.209, to read as follows:

56.807. LOCAL PAYMENTS, AMOUNTS — PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS' RETIREMENT SYSTEM FUND CREATED — DONATIONS MAY BE ACCEPTED. — 1. **Beginning August 28, 1989, and continuing monthly thereafter until August 27, 2003,** the funds for prosecuting attorneys and circuit attorneys provided for in subsection 2 of this section shall be paid from county or city funds.

2. Beginning **[**thirty days after the establishment of this system**]** **August 28, 1989,** and **continuing** monthly thereafter **until August 27, 2003**, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification except as provided in subdivision (3) of this subsection, three hundred seventy-five dollars;

(2) For counties of the second classification, five hundred forty-one dollars and sixty-seven cents;

(3) For counties of the first classification, counties which pursuant to section 56.363 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363, and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-seven cents.

3. **Beginning August 28, 1989, and continuing until August 27, 2003,** the county treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys held by the state treasurer on behalf of the system shall be paid to the system within ninety days after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys'

retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

4. **Beginning August 28, 2003, the funds for prosecuting attorneys and circuit attorneys provided for in this section shall be paid from county or city funds and the surcharge established in this section and collected as provided by this section and sections 488.010 to 488.020, RSMo.**

5. Beginning August 28, 2003, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification except as provided in subdivision (3) of this subsection, one hundred eighty-seven dollars;

(2) For counties of the second classification, two hundred seventy-one dollars;

(3) For counties of the first classification, counties which pursuant to section 56.363, elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363, and the city of St. Louis, six hundred forty-six dollars.

6. Beginning August 28, 2003, the county treasurer shall at least monthly transmit the sums specified in subsection 5 of this section to the Missouri office of prosecution services for deposit to the credit of the Missouri prosecuting attorneys and circuit attorneys retirement system fund. Moneys in the Missouri prosecuting attorneys and circuit attorneys retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840, and for no other purpose.

7. Beginning August 28, 2003, the following surcharge for prosecuting attorneys and circuit attorneys shall be collected and paid as follows:

(1) There shall be assessed and collected a surcharge of four dollars in all criminal cases filed in the courts of this state including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county, or municipality or when a criminal proceeding or the defendant has been dismissed by the court or against any person who has pled guilty and paid their fine pursuant to subsection 4 of section 476.385, RSMo. For purposes of this section, the term "county ordinance" shall include any ordinance of the city of St. Louis;

(2) The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.026, RSMo. Such funds shall be payable to the prosecuting attorneys and circuit attorneys' retirement fund moneys credited to the prosecuting attorneys and circuit attorneys' retirement fund and shall be used only for the purposes provided for in sections 56.800 to 56.840 and for no other purpose.

8. The board may accept gifts, donations, grants and bequests from private or public sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

[5.**]** **9.** No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840 unless provided for by law.

84.570. POLICE FORCE — QUALIFICATIONS — COMPETITIVE EXAMINATIONS — ELIGIBLE LIST — RULES BY BOARD (KANSAS CITY). — 1. No person shall be appointed policeman or officer of police who shall have been convicted of any offense, the punishment of which may be confinement in the state penitentiary; nor shall any person be appointed who is not proven to be of good character, or who is not proven to be a bona fide citizen **[**and resident of such city for a period of at least one year and a citizen**]** of the United States, or who cannot read and write the English language and who does not possess ordinary physical strength and courage, nor shall any person be originally appointed to said police force who is less than twenty-one years of age**[**; provided, however, that the board of police commissioners may, upon recommendation of the chief, waive the requirement of residency in the appointment of any

policeman or officer of police for the period during which such appointee shall be on probationary status; provided, however, that on completion of the probationary period such policeman or officer of police becomes a bona fide resident of such city**]**. **Notwithstanding any other provision of law, the board shall have the sole authority to determine conditions of employment for police officers pursuant to section 84.460.**

2. The board shall from time to time require open competitive examinations or tests for determining the qualifications and fitness of all applicants for appointment to positions on the police force. Such examinations and tests shall be practical and shall relate to matters which fairly measure the relative fitness of the candidates to discharge the duties of the positions to which they seek to be appointed. Notice of such examinations and tests shall be given not less than ten days in advance thereof by public advertisement in at least one newspaper of general circulation in such city, and by posting notice in the police headquarters building. A list of those qualifying in such examinations shall be established, listing those qualified in order of rank. When an appointment is to be made, the appointment shall be made from such eligible list.

3. The board shall also establish rules for:

(1) Temporary employment for not exceeding sixty days in the absence of any eligible list;

(2) Hours of work of police employees and officers subject to the provisions of section 84.510; and

(3) Attendance regulations and leaves of absence.

217.362. PROGRAM FOR OFFENDERS WITH SUBSTANCE ABUSE ADDICTION — ELIGIBILITY, DISPOSITION, PLACEMENT — COMPLETION, EFFECT. — 1. The department of corrections shall design and implement an intensive long-term program for the treatment of chronic nonviolent offenders with serious substance abuse addictions who have not pleaded guilty to or been convicted of a dangerous felony as defined in section 556.061, RSMo.

2. Prior to sentencing, any judge considering an offender for this program shall notify the department. The potential candidate for the program shall be screened by the department to determine eligibility. The department shall, by regulation, establish eligibility criteria and inform the court of such criteria. The department shall notify the court as to the offender's eligibility and the availability of space in the program. Notwithstanding any other provision of law to the contrary, except as provided for in section 558.019, RSMo, if an offender is eligible and there is adequate space, the court may sentence a person to the program which shall consist of institutional drug **or alcohol** treatment for a period of **at least twelve and no more than** twenty-four months, as well as a term of incarceration. **The department shall determine the nature, intensity, duration, and completion criteria of the education, treatment, and aftercare portions of any program services provided.** Execution of the offender's term of incarceration shall be suspended pending completion of said program. Allocation of space in the program may be distributed by the department in proportion to drug arrest patterns in the state. If the court is advised that an offender is not eligible or that there is no space available, the court shall consider other authorized dispositions.

3. **[**Notwithstanding any other provision of the law to the contrary, upon successful completion of the program, the board of probation and parole may advise the sentencing court of the eligibility of the individual for probation. The original sentencing court shall hold a hearing to make a determination as to the fitness of the offender to be placed on probation. The court shall follow the recommendation of the board unless the court makes a determination that such a placement would be an abuse of discretion. If an offender successfully completes the program before the end of the twenty-four-month period, the department may petition the court and request that probation be granted immediately.**]** **Upon successful completion of the program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. If the court determines that probation is not appropriate the court may order the execution of the offender's sentence.**

4. If it is determined by the department that the offender has not successfully completed the program, or that the offender is not cooperatively participating in the program, the offender shall be removed from the program and the court shall be advised. Failure of an offender to complete the program shall cause the offender to serve the sentence prescribed by the court and void the right to be considered for probation on this sentence.

5. An offender's first incarceration in a department of corrections program pursuant to this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term pursuant to the provisions of section 558.019, RSMo.

217.750. PROBATION SERVICES PROVIDED TO CIRCUIT COURTS, WHEN. — 1. At the request of a judge of any circuit court, the board shall provide probation services for such court as provided in subsection 2 of this section.

2. The board shall provide probation services for any person convicted of any class of felony. The board shall not **[**be required to**]** provide probation services for any class of misdemeanor except those class A misdemeanors the basis of which is contained in chapters 565**[**,**] and** 566 **[**and 570**]**, RSMo, or in section 568.050, RSMo, 455.085, RSMo, or section 455.538, RSMo. **[**The board may in its discretion accept other persons for supervision who have been convicted of driving while intoxicated under the provisions of section 577.023, RSMo.**]**

217.760. PROBATION AND PAROLE OFFICERS FURNISHED TO CIRCUIT COURTS, WHEN — PRESENTENCE AND PREPAROLE INVESTIGATIONS — REQUIREMENTS. — 1. In all felony cases and class A misdemeanor cases, the basis of which misdemeanor cases are contained in chapters 565**[**,**] and** 566, **[**and 570,**]** RSMo, and section 577.023, RSMo, at the request of a circuit judge of any circuit court, the board shall assign one or more state probation and parole officers to make an investigation of the person convicted of the crime or offense before sentence is imposed. **In all felony cases in which the recommended sentence established by the sentencing advisory commission pursuant to subsection 6 of section 558.019, RSMo, includes probation but the recommendation of the prosecuting attorney or circuit attorney does not include probation, the board of probation and parole shall, prior to sentencing, provide the judge with a report on available alternatives to incarceration. If a presentence investigation report is completed then the available alternatives shall be included in the presentence investigation report.**

2. The report of the presentence investigation or preparole investigation shall contain any prior criminal record of the defendant and such information about his **or her** characteristics, his **or her** financial condition, his **or her** social history **[**and**],** the circumstances affecting his **or her** behavior as may be helpful in imposing sentence or in granting probation or in the correctional treatment of the defendant, **information concerning the impact of the crime upon the victim, the recommended sentence established by the sentencing advisory commission and available alternatives to incarceration including opportunities for restorative justice,** as well as a recommendation by the probation and parole officer. The officer shall secure such other information as may be required by the court and, whenever it is practicable and needed, such investigation shall include a physical and mental examination of the defendant.

478.610. CIRCUIT NO. 13, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED — ADDITIONAL ASSOCIATE CIRCUIT JUDGE FOR BOONE COUNTY, WHEN. — 1. There shall be three circuit judges in the thirteenth judicial circuit consisting of the counties of Boone and Callaway. These judges shall sit in divisions numbered one, two and three. **Beginning on January 1, 2007, there shall be four circuit judges in the thirteenth judicial circuit and these judges shall sit in divisions numbered one, two, three, and four.**

2. The circuit judge in division two shall be elected in 1980. The circuit judges in divisions one and three shall be elected in 1982. **The circuit judge in division four shall be elected in 2006 for a two-year term and thereafter in 2008 for a full six-year term.**

3. The authority for a majority of judges of the thirteenth judicial circuit to appoint or retain a commissioner pursuant to section 478.003 shall expire August 28, 2001. As of such date, there shall be one additional associate circuit judge position in Boone County than is provided pursuant to section 478.320.

488.026. SURCHARGE FOR ALL CRIMINAL CASES, AMOUNT — COUNTY ORDINANCE DEFINED — COLLECTION AND DEPOSIT OF FUNDS. — As provided by section 56.807, RSMo, there shall be assessed and collected a surcharge of four dollars in all criminal cases filed in the courts of this state, including violations of any county ordinance or any violation of criminal or traffic laws of this state, including infractions, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county, or municipality or when a criminal proceeding or the defendant has been dismissed by the court or against any person who has pled guilty and paid their fine pursuant to subsection 4 of section 476.385, RSMo. For purposes of this section, the term "county ordinance" shall include any ordinance of the City of St. Louis. The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.020. Such funds shall be payable to the prosecuting attorneys and circuit attorneys' retirement fund.

488.5026. TWO-DOLLAR SURCHARGE FOR ALL CRIMINAL CASES, FUNDS TO BE DEPOSITED IN INMATE SECURITY FUND. — 1. Upon approval of the governing body of a city, county, or a city not within a county, a surcharge of two dollars shall be assessed as costs in each court proceeding filed in any court in any city, county, or city not within a county adopting such a surcharge, in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of two dollars shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, and shall be payable to the treasurer of the governmental unit authorizing such surcharge.

3. The treasurer shall deposit funds generated by the surcharge into the "Inmate Security Fund". Funds deposited shall be utilized to develop biometric identification systems to insure that inmates can be properly identified and tracked within the local jail system.

513.653. PEACE OFFICERS USING FEDERAL FORFEITURE SYSTEM, AUDIT OF FEDERAL SEIZURE PROCEEDS — COPIES PROVIDED TO WHOM — VIOLATION, PENALTY. — 1. Law enforcement agencies involved in using the federal forfeiture system under federal law shall be required at the end of their respective fiscal year to acquire an independent audit of the federal seizures and the proceeds received therefrom and provide this audit to their respective governing body **and to the department of public safety**. A copy of such audit shall be provided to the state auditor's office. This audit shall be paid for out of the proceeds of such federal forfeitures. **The department of public safety shall not issue funds to any law enforcement agency that fails to comply with the provisions of this section.**

2. Intentional or knowing failure to comply with the audit requirement contained in this section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars.

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, kidnaping, murder in the second degree**, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, [**and**]** robbery in the first degree**, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, and abuse of a child pursuant to subdivision (2) of subsection 3 of section 568.060, RSMo**;

(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.

557.036. ROLE OF COURT AND JURY IN SENTENCING — TWO STAGES OF TRIAL — PUNISHMENT ASSESSED BY JURY, WHEN. — 1. **[**Subject to the limitation provided in subsection 3 of this section,**]** Upon a finding of guilt upon verdict or plea, the court shall decide the extent or duration of sentence or other disposition to be imposed under all the circumstances, having regard to the nature and circumstances of the offense and the history and character of the defendant and render judgment accordingly.

2. **[**The court shall instruct the jury as to the range of punishment authorized by statute and upon a finding of guilt to assess and declare the punishment as a part of their verdict, unless:**]** **Where an offense is submitted to the jury, the trial shall proceed in two stages. At the first stage, the jury shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the jury at the first stage.**

3. If the jury at the first stage of a trial finds the defendant guilty of the submitted offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall be the punishment to be assessed and declared. Evidence supporting or mitigating punishment may be presented. Such evidence may include, within the discretion of the court, evidence concerning the impact of the crime upon the victim, the victim's family and others, the nature and circumstances of the offense, and the history and character of the defendant. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. The court shall instruct the jury as to the range of punishment authorized by statute for each submitted offense. The attorneys may argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The jury shall assess and declare the punishment as authorized by statute.

4. A second stage of the trial shall not proceed and the court, and not the jury, shall assess punishment if:

(1) The defendant requests in writing, prior to voir dire, that the court assess the punishment in case of a finding of guilt; or

(2) The state pleads and proves the defendant is a prior offender, persistent offender, dangerous offender, or persistent misdemeanor offender as defined in section 558.016, RSMo, a persistent sexual offender as defined in section 558.018, RSMo, or a predatory sexual offender as defined in section 558.018, RSMo.

If the jury **[**finds the defendant guilty but**]** cannot agree on the punishment to be assessed, the court shall proceed as provided in subsection 1 of this section. If **[**there be a trial by jury and the jury is to assess punishment and if**],** after due deliberation by the jury**,** the court finds the jury cannot agree on punishment, then the court may instruct the jury that if it cannot agree on punishment that **[**it may return its verdict without assessing punishment and**]** the court will assess punishment.

[3.**]** **5.** If the jury returns a verdict of guilty **in the first stage** and declares a term of imprisonment **[**as provided in subsection 2 of this section**]** **in the second stage**, the court shall proceed as provided in subsection 1 of this section except that any term of imprisonment imposed cannot exceed the term declared by the jury unless the term declared by the jury is less than the authorized lowest term for the offense, in which event the court cannot impose a term of imprisonment greater than the lowest term provided for the offense.

[4.**]** **6.** If the defendant is found to be a prior offender, persistent offender, dangerous offender or persistent misdemeanor offender as defined in section 558.016, RSMo:

(1) If he has been found guilty of an offense, the court shall proceed as provided in section 558.016, RSMo; or

(2) If he has been found guilty of a class A felony, the court may impose any sentence authorized for the class A felony.

[5.**]** **7.** The court shall not seek an advisory verdict from the jury in cases of prior offenders, persistent offenders, dangerous offenders, persistent sexual offenders or predatory sexual offenders; if an advisory verdict is rendered, the court shall not deem it advisory, but shall consider it as mere surplusage.

558.011. SENTENCE OF IMPRISONMENT, TERMS — CONDITIONAL RELEASE. — 1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;

(3) For a class C felony, a term of years not to exceed seven years;

(4) For a class D felony, a term of years not to exceed **[**five**]** **four** years;

(5) For a class A misdemeanor, a term not to exceed one year;

(6) For a class B misdemeanor, a term not to exceed six months;

(7) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the **[**defendant**]** **person** to the custody of the department of corrections for the term imposed under section 557.036, RSMo, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the **[**defendant**]** **person** to the county jail or other authorized penal institution for the term of his **or her** sentence or until released under procedure established elsewhere by law.

4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036, RSMo, shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an

offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his **or her** behalf and cross-examine witnesses appearing against **[**him**] the offender**. The hearing shall be conducted as provided in section 217.670, RSMo. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

558.016. EXTENDED TERMS FOR RECIDIVISM — DEFINITIONS — PERSISTENT MISDEMEANOR OFFENDER. — 1. The court may sentence a person who has pleaded guilty to or has been found guilty of an offense to a term of imprisonment as authorized by section 558.011 or to a term of imprisonment authorized by a statute governing the offense, if it finds the defendant is a prior offender or a persistent misdemeanor offender, or to an extended term of imprisonment if it finds the defendant is a persistent offender or a dangerous offender.

2. A "prior offender" is one who has pleaded guilty to or has been found guilty of one felony.

3. A "persistent offender" is one who has pleaded guilty to or has been found guilty of two or more felonies committed at different times.

4. A "dangerous offender" is one who:

(1) Is being sentenced for a felony during the commission of which he knowingly murdered or endangered or threatened the life of another person or knowingly inflicted or attempted or threatened to inflict serious physical injury on another person; and

(2) Has pleaded guilty to or has been found guilty of a class A or B felony or a dangerous felony.

5. A "persistent misdemeanor offender" is one who has pleaded guilty to or has been found guilty of two or more class A or B misdemeanors, committed at different times, which are defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, and 576, RSMo.

6. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

7. The total authorized maximum terms of imprisonment for a persistent offender or a dangerous offender are:

(1) For a class A felony, any sentence authorized for a class A felony;

(2) For a class B felony, **[**a term of years not to exceed thirty years**] any sentence authorized for a class A felony**;

(3) For a class C felony, **[**a term of years not to exceed twenty years**] any sentence authorized for a class B felony**;

(4) For a class D felony, **[**a term of years not to exceed ten years**] any sentence authorized for a class C felony**.

8. An offender convicted of a nonviolent class C or class D felony with no prior prison commitments, after serving one hundred twenty days of his or her sentence, may, in writing, petition the court to serve the remainder of his or her sentence on probation, parole, or other court-approved alternative sentence. No hearing shall be conducted unless the court deems it necessary. Upon the offender petitioning the court, the department of corrections shall submit a report to the sentencing court which evaluates the conduct of the offender while in custody, alternative custodial methods available to the offender, and shall recommend whether the offender be released or remain in custody.

If the report issued by the department is favorable and recommends probation, parole, or other alternative sentence, the court shall follow the recommendations of the department if the court deems it appropriate. Any placement of an offender pursuant to section 559.115, RSMo, shall be excluded from the provisions of this subsection.

558.019. PRIOR FELONY CONVICTIONS, MINIMUM PRISON TERMS — PRISON COMMITMENT DEFINED — DANGEROUS FELONY, MINIMUM TERM PRISON TERM, HOW CALCULATED — SENTENCING COMMISSION CREATED, MEMBERS, DUTIES — RECOMMENDED SENTENCES, DISTRIBUTION — REPORT — EXPENSES — COOPERATION WITH COMMISSION — RESTORATIVE JUSTICE METHODS. — 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

2. The provisions of **subsections 2 to 5 of** this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of a **[**defendant**]** **offender** after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any **[**defendant**]** **offender** who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the **[**defendant**]** **offender** has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the **[**defendant**]** **offender** must serve shall be forty percent of his **or her** sentence or until the **[**defendant**]** **offender** attains seventy years of age, and has served at least **[**forty**]** **thirty** percent of the sentence imposed, whichever occurs first;

(2) If the **[**defendant**]** **offender** has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the **[**defendant**]** **offender** must serve shall be fifty percent of his **or her** sentence or until the **[**defendant**]** **offender** attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the **[**defendant**]** **offender** has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the **[**defendant**]** **offender** must serve shall be eighty percent of his **or her** sentence or until the **[**defendant**]** **offender** attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any **[**defendant**]** **offender** who has pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the **[**defendant**]** **offender** attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for crimes committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the **[**defendant**]** **offender** before he **or she** is eligible for parole, conditional release or other early release by the department of corrections. Except that the board of probation and parole, in the case of consecutive sentences imposed at the same time pursuant to a course of conduct constituting a common scheme or plan, shall be authorized to convert consecutive sentences to concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit attorney, that the sum of the terms results in an unreasonably excessive total term, taking into consideration all factors related to the crime or crimes committed and the sentences received by others similarly situated.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. **All members shall be appointed to a four-year term.** All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for **[**defendants**]** **offenders** convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor **sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence**. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

(a) The nature and severity of each offense;

(b) The record of prior offenses by the offender;

(c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and

(d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) **The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.**

(5) The commission shall publish and distribute its **[**system of recommended sentences**]** **recommendations** on or before July 1, **[**1995**]** **2004**. The commission shall study the implementation and use of the **[**system of recommended sentences**]** **recommendations** until July 1, **[**1998**]** **2005**, and return a **[**final**]** report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, **[**1998**]** **2005**, report, the commission **[**may**]** **shall** revise the recommended sentences every **[**three**]** **two** years.

[(5)**]** **(6)** The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

[(6)**]** **(7)** The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

[(7)**]** **(8)** The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. **Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.**

8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community based residential and nonresidential programs.

9. The provisions of this section shall apply only to offenses occurring on or after August 28, **[**1994**]** **2003**.

559.026. DETENTION CONDITION OF PROBATION. — Except in infraction cases, when probation is granted, the court, in addition to conditions imposed **[**under**]** **pursuant to** section 559.021, may require as a condition of probation that the **[**defendant**]** **offender** submit to a period of detention **up to forty-eight hours after the determination by a probation or parole officer that the offender violated a condition of continued probation or parole** in an appropriate institution at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court shall designate**, or the board of probation and parole shall direct**. Any person placed on probation in a county of the first class or second class or in any city with a population of five hundred thousand or more and detained as herein provided shall be subject to all provisions of section 221.170, RSMo, even though he was not convicted and sentenced to a jail or workhouse.

(1) In misdemeanor cases, the period of detention under this section shall not exceed the shorter of fifteen days or the maximum term of imprisonment authorized for the misdemeanor by chapter 558, RSMo.

(2) In felony cases, the period of detention under this section shall not exceed one hundred twenty days.

(3) If probation is revoked and a term of imprisonment is served by reason thereof, the time spent in a jail, **half-way house, honor center,** workhouse or other institution as a detention condition of probation shall be credited against the prison or jail term served for the offense in connection with which the detention condition was imposed.

559.115. APPEALS, PROBATION NOT TO BE GRANTED, WHEN — PROBATION GRANTED AFTER DELIVERY TO DEPARTMENT OF CORRECTIONS, TIME LIMITATION, ASSESSMENT — ONE HUNDRED TWENTY DAY PROGRAM — NOTIFICATION TO STATE, WHEN, HEARING — NO PROBATION IN CERTAIN CASES. — 1. Neither probation nor parole shall be granted by the circuit court between the time the transcript on appeal from the **[**defendant's**]** **offender's** conviction has been filed in appellate court and the disposition of the appeal by such court.

2. **Unless otherwise prohibited by subsection 5 of this section,** a circuit court only upon its own motion and not that of the state or the **[**defendant**]** **offender** shall have the power to grant probation to a **[**defendant**]** **offender** anytime up to one hundred twenty days after such

[defendant**]** **offender** has been delivered to **[**the custody of**]** the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the **[**defendant**]** **offender** and such **[**defendant's**]** **offender's** behavior during the period of incarceration. Except as provided in this section, the court may place the **[**defendant**]** **offender** on probation in a program created pursuant to section 217.777, RSMo, or may place the **[**defendant**]** **offender** on probation with any other conditions authorized by law.

3. The court may recommend placement of an offender in a department of corrections one hundred twenty day program. Upon the recommendation of the court, the department of corrections shall determine the offender's eligibility for the program, the nature, intensity, and duration of any offender's participation in a program and the availability of space for an offender in any program. When the court recommends and receives placement of an offender in a department of corrections one hundred twenty day program, the offender shall be released on probation if the department of corrections determines that the offender has successfully completed the program except as follows. Upon successful completion of a treatment program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall release the offender unless such release constitutes an abuse of discretion. If the court determined that there is an abuse of discretion, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days of the offender's sentence. If the court does not respond when an offender successfully completes the program, the offender shall be released on probation. Upon successful completion of a shock incarceration program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall follow the recommendation of the department unless the court determines that probation is not appropriate. If the court determines that probation is not appropriate, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days of the offender's sentence. If the department determines that an offender is not successful in a program, then after one hundred days of incarceration the circuit court shall receive from the department of corrections a report on the offender's participation in the program and department recommendations for terms and conditions of an offender's probation. The court shall then release the offender on probation or order the offender to remain in the department to serve the sentence imposed.

4. If the department of corrections' one hundred twenty day program is full, the court may place the offender in a private program approved by the department of corrections or the court, the expenses of such program to be paid by the offender, or in an available program offered by another organization. If the offender is convicted of a class C or class D nonviolent felony, the court may order probation while awaiting appointment to treatment.

[3.**]** **5.** Except when the **[**defendant**]** **offender** has been found to be a predatory sexual offender pursuant to section 558.018, RSMo, the court shall request that the **[**defendant**]** **offender** be **[**place**]** **placed** in the sexual offender assessment unit of the department of corrections if the defendant has pleaded guilty to or has been found guilty of sexual abuse when classified as a class B felony.

[4.**]** **6. Unless the offender is being granted probation pursuant to successful completion of a one hundred twenty day program** the circuit court shall notify the state in writing when the court intends to grant probation to the **[**defendant**]** **offender** pursuant to the provisions of this section. The state may, in writing, request a hearing within ten days of receipt of the court's notification that the court intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not

respond to the court's notice in writing within ten days, the court may proceed upon its own motion to grant probation.

7. An offender's first incarceration for one hundred twenty days for participation in a department of corrections program prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term under the provisions of section 558.019.

[5.**]** **8.** Notwithstanding any other provision of law, probation may not be granted pursuant to this section to **[**defendants**]** **offenders** who have been convicted of murder in the second degree pursuant to section 565.021, RSMo; forcible rape pursuant to section 566.030, RSMo; forcible sodomy pursuant to section 566.060, RSMo; statutory rape in the first degree pursuant to section 566.032, RSMo; statutory sodomy in the first degree pursuant to section 566.062, RSMo; child molestation in the first degree pursuant to section 566.067, RSMo, when classified as a class B felony; abuse of a child pursuant to section 568.060, RSMo, when classified as a class A felony; a **[**defendant**]** **offender** who has been found to be a predatory sexual offender pursuant to section 558.018, RSMo; or any offense in which there exists a statutory prohibition against either probation or parole.

565.081. ASSAULT OF A LAW ENFORCEMENT OFFICER OR EMERGENCY PERSONNEL IN THE FIRST DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer **or emergency personnel** in the first degree if **[**he**]** **such person** attempts to kill or knowingly causes or attempts to cause serious physical injury to a law enforcement officer **or emergency personnel**.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

[2.**]** **3.** Assault of a law enforcement officer **or emergency personnel** in the first degree is a class A felony.

565.082. ASSAULT OF A LAW ENFORCEMENT OFFICER OR EMERGENCY PERSONNEL IN THE SECOND DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer **or emergency personnel** in the second degree if **[**he**]** **such person**:

(1) **[**Attempts to cause or**]** Knowingly causes **or attempts to cause** physical injury to a law enforcement officer **or emergency personnel** by means of a deadly weapon or dangerous instrument;

(2) Recklessly causes serious physical injury to a law enforcement officer**[**;**]** or **emergency personnel; or**

(3) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer **or emergency personnel**.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

[2.**]** **3.** Assault of a law enforcement officer **or emergency personnel** in the second degree is a class B felony.

565.083. ASSAULT OF A LAW ENFORCEMENT OFFICER OR EMERGENCY PERSONNEL IN THE THIRD DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer **or emergency personnel** in the third degree if:

(1) **[**He**]** **Such person** attempts to cause or recklessly causes physical injury to a law enforcement officer **or emergency personnel**;

(2) With criminal negligence **[**he**]** **such person** causes physical injury to a law enforcement officer **or emergency personnel** by means of a deadly weapon;

(3) **[**He**]** **Such person** purposely places a law enforcement officer **or emergency personnel** in apprehension of immediate physical injury;

(4) **[**He recklessly engages in conduct which**]** **With criminal negligence such person** creates a grave risk of death or serious physical injury to a law enforcement officer **or emergency personnel**; or

(5) **[**He**]** **Such person** knowingly causes or attempts to cause physical contact with a law enforcement officer **or emergency personnel** without the consent of the law enforcement officer **or emergency personnel**.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

[2.**]** **3.** Assault of a law enforcement officer **or emergency personnel** in the third degree is a class A misdemeanor.

565.350. TAMPERING WITH A PRESCRIPTION OR A DRUG PRESCRIPTION ORDER, CRIME OF — PENALTY. — 1. Any pharmacist licensed pursuant to chapter 338, RSMo, commits the crime of tampering with a prescription or a prescription drug order as defined in section 338.095, RSMo, if such person knowingly:

(1) Causes the intentional adulteration of the concentration or chemical structure of a prescribed drug or drug therapy without the knowledge and consent of the prescribing practitioner;

(2) Misrepresents a misbranded, altered, or diluted prescription drug or drug therapy with the purpose of misleading the recipient or the administering person of the prescription drug or drug therapy; or

(3) Sells a misbranded, altered, or diluted prescription drug therapy with the intention of misleading the purchaser.

2. Tampering with a prescription drug order is a class A felony.

568.045. ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE, PENALTIES. — 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age, unlawfully manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. Endangering the welfare of a child in the first degree is a class **[**D**]** **C** felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class **[**C**]** **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 pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

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

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

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

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

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo; or

(l) Anhydrous ammonia; or

(m) Ammonium nitrate.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class **[**D**]** **C** felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class **[**C**]** **B** felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

570.040. STEALING, THIRD OFFENSE. — 1. Every person who has previously pled guilty or been found guilty on two separate occasions of a stealing-related offense where such offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offense and who subsequently pleads guilty or is found guilty of a stealing-related offense is guilty of a class **[**C**]** **D** felony and shall be punished accordingly.

2. As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing or buying or receiving stolen property and shall also include municipal ordinances against same if the defendant was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings.

3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior guilty pleas or findings of guilt.

571.030. UNLAWFUL USE OF WEAPONS — EXCEPTIONS — PENALTIES. — 1. A person commits the crime of unlawful use of weapons if he or she knowingly:

(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Sets a spring gun; or

(3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

(5) Possesses or discharges a firearm or projectile weapon while intoxicated; or

(6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or

(7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof, or into any public assemblage of persons met for any lawful purpose; or

(9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, RSMo, while within any city, town, or village, and discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

(10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

2. Subdivisions (1), (3), (4), (6), (7), (8) , (9) and (10) of subsection 1 of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers **who have completed the training required by Police Officer Standards and Training Commission pursuant to sections 590.030 to 590.050, RSMo, and** possessing the duty and power of arrest for violation

of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state**, whether on duty or off duty, and whether in or outside of the law enforcement agency's jurisdiction**, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer;

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole; and

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340, RSMo.

3. Subdivisions (1), (5), (8) and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state.

Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

4. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

5. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision (5), (6), (7) or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

6. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

7. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

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, 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, 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 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 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 August 28, **[**2002**]** **2003**. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town **[**or**],** village**, or campus** law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town **[**or**],** village**, or campus** law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.407. REGISTRATION, REQUIRED INFORMATION. — Any registration pursuant to sections 589.400 to 589.425 shall consist of completion of an offender registration form developed by the Missouri state highway patrol. Such form shall include, but is not limited to the following:

(1) A statement in writing signed by the person, giving the name, address, Social Security number and phone number of the person, the place of employment of such person, **enrollment within any institutions of higher education,** the crime which requires registration, whether the person was sentenced as a persistent or predatory offender pursuant to section 558.018, RSMo, the date, place, and a brief description of such crime, the date and place of the conviction or plea regarding such crime, the age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to section 589.040, if applicable; and

(2) The fingerprints and a photograph of the person.

589.414. REGISTRANT'S DUTIES ON CHANGE OF ADDRESS — TIME LIMITATIONS FOR CERTAIN NOTIFICATIONS. — 1. If any person required by sections 589.400 to 589.425 to register changes residence or address within the same county as such person's previous address, the person shall inform the chief law enforcement official in writing within ten days of such new address and phone number, if the phone number is also changed.

2. If any person required by sections 589.400 to 589.425 to register changes such person's residence or address to a different county, the person shall appear in person and shall inform both the chief law enforcement official with whom the person last registered and the chief law enforcement official of the county having jurisdiction over the new residence or address in writing within ten days, of such new address and phone number, if the phone number is also changed. If any person required by sections 589.400 to 589.425 to register changes their state of residence, the person shall appear in person and shall inform both the chief law enforcement official with whom the person was last registered and the chief law enforcement official of the area in the new state having jurisdiction over the new residence or address within ten days of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county where the person was previously registered shall promptly inform the Missouri state highway patrol of the change. When the registrant is changing the residence to a new state, the Missouri state highway patrol shall promptly inform the responsible official in the new state of residence.

3. Any person required by sections 589.400 to 589.425 to register who changes his or her enrollment or employment status with any institution of higher education within this state, by either beginning or ending such enrollment or employment, shall inform the chief law enforcement officer of such change within seven days after such change is made.

[3.**]** **4.** Any person required by sections 589.400 to 589.425 to register who officially changes such person's name shall inform the chief law enforcement officer of such name change within seven days after such change is made.

[4.**]** **5.** In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall report in person to the county law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

(1) Any offender registered as a predatory or persistent sexual offender under the definitions found in section 558.018, RSMo;

(2) Any offender who is registered for a crime where the victim was less than eighteen years of age at the time of the offense; and

(3) Any offender who has pled guilty or been found guilty pursuant to section 589.425 of failing to register or submitting false information when registering.

[5.**]** **6.** In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report annually in person in the month of their birth to the county law enforcement agency to verify the information contained in their statement made pursuant to section 589.407.

[6.**]** **7.** In addition to the requirements of subsections 1 and 2 of this section, all Missouri registrants who work or attend school or training on a full-time or part-time basis in any other state shall be required to report in person to the chief law enforcement officer in the area of the

state where they work or attend school or training and register in that state. Part-time in this subsection means for more than fourteen days in any twelve-month period.

595.209. RIGHTS OF VICTIMS AND WITNESSES — WRITTEN NOTIFICATION, REQUIREMENTS. — 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023, RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

(1) For victims, the right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult**, even if the victim is called to testify or may be called to testify as a witness in the case**;

(2) For victims, the right to information about the crime, as provided for in subdivision (5) of this subsection;

(3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Final disposition information shall be provided within five days;

(4) For victims, the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise;

(5) The right to be informed by local law enforcement agencies, the appropriate juvenile authorities or the custodial authority of the following:

(a) The status of any case concerning a crime against the victim, including juvenile offenses;

(b) The right to be informed by local law enforcement agencies or the appropriate juvenile authorities, of the availability of victim compensation assistance, assistance in obtaining documentation of the victim's losses, including, but not limited to and subject to existing law concerning protected information or closed records, access to copies of complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon request to the appropriate law enforcement agency by the victim or the victim's representative, and emergency crisis intervention services available in the community;

(c) Any release of such person on bond or for any other reason;

(d) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings and the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention

facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552, RSMo, of the following:

(a) The projected date of such person's release from confinement;

(b) Any release of such person on bond;

(c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;

(d) Any scheduled parole or release hearings regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

(e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(f) Any decision by a parole board, juvenile releasing authority or circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

(g) Notification within thirty days of the death of such person;

(8) For witnesses who have been summoned by the prosecuting attorney and for victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding will not go on as scheduled;

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(10) For victims and witnesses, on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability of victim compensation assistance and of financial assistance and emergency and crisis intervention services available within the community and information relative to applying for such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

(11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;

(12) For victims and witnesses, to be informed by the court and the prosecuting attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(13) When a victim's property is no longer needed for evidentiary reasons or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of the property shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings, or provide written explanation of the reason why such property shall not be returned;

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding or for participating in the preparation of a criminal proceeding;

(15) For victims, to be provided with creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

(16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status

information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;

(17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration.

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses and telephone numbers or the addresses or telephone numbers at which they wish notification to be given.

4. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section.

5. Victims' rights as established in section 32 of article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.

SECTION B. EMERGENCY CLAUSE. — Because of the need to relieve the overcrowding in the prisons 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 27, 2003

SB 11 [CCS#2 HS HCS SCS SB 11]

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

Makes various modifications to taxation.

AN ACT to repeal sections 34.070, 34.073, 99.820, 137.100, 143.121, 143.181, 144.030, 144.615, and 260.830, RSMo, and to enact in lieu thereof thirteen new sections relating to taxation, with a termination date for a certain section.

SECTION

A. Enacting clause.
21.810. Joint committee on tax policy established, members, appointment, duties.
34.070. Preference to Missouri products and firms.

34.073. Missouri businesses, performance of jobs or services, preference, when.
71.611. Certain villages prohibited from imposing a license tax in excess of $10,000 per license.
99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
137.100. Certain property exempt from taxes.
143.121. Missouri adjusted gross income.
143.181. Missouri nonresident adjusted gross income.
144.030. Exemptions from state and local sales and use taxes.
144.049. Sales tax holiday for clothing, personal computers, and school supplies, when — expiration date.
144.615. Exemptions.
144.817. Sales tax exemption for certain property donated to the state within one year of purchase.
260.830. Landfill fee authorized, counties of third and fourth classification — approval, ballot, limitation.

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

SECTION A. ENACTING CLAUSE. — Sections 34.070, 34.073, 99.820, 137.100, 143.121, 143.181, 144.030, 144.615, and 260.830, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 21.810, 34.070, 34.073, 71.611, 99.820, 137.100, 143.121, 143.181, 144.030, 144.049, 144.615, 144.817, and 260.830, to read as follows:

21.810. JOINT COMMITTEE ON TAX POLICY ESTABLISHED, MEMBERS, APPOINTMENT, DUTIES. — 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Tax Policy" which shall be composed of five members of the senate, appointed by the president pro tem of the senate, and five members of the house of representatives, appointed by the speaker of the house of representatives. A majority of the members of the committee shall constitute a quorum. The members shall annually select one of the members to be the chair and one of the members to be the vice chair. The speaker of the house of representatives and the president pro tem of the senate shall appoint the respective majority members. The minority leader of the house and the minority leader of the senate shall appoint the respective minority members. The members shall receive no additional compensation, but shall be reimbursed for actual and necessary expenses incurred by them in the performance of their duties. No major party shall be represented on the committee by more than three members from the senate nor by more than three members from the house. The committee is authorized to meet and act year round and to employ the necessary personnel within the limits of appropriations. The staff of the committee on legislative research, house research, and senate research shall provide necessary clerical, research, fiscal, and legal services to the committee, as the committee may request.

2. It shall be the duty of the committee:

(1) To make a continuing study and analysis of the current and proposed tax policy of this state as it relates to:

(a) Fairness and equity;

(b) True economic impact;

(c) Burden on individuals and businesses;

(d) Effectiveness of tax expenditures;

(e) Impact on political subdivisions of this state;

(f) Agreements and contracts with the federal government, other states and territories, political subdivisions, and private entities relating to the collection and administration of state and local taxes and fees;

(g) Compliance with the state and United States Constitution and federal and international law; and

(h) The effects of interstate commerce;

(2) To make a continuing study and review of the department of revenue, the department of economic development, the state tax commission, and any other state

agency, commission, or state executive office responsible for the administration of tax policies;

(3) To study the effects of the coupling or decoupling with the federal income tax code as it relates to the state income tax;

(4) To make recommendations, as and when the committee deems fit, to the general assembly for legislative action or to report findings and to the departments, commissions, and offices for administrative or procedural changes; and

(5) To study the effects of a sales tax holiday.

3. All state departments, commissions, and offices responsible for the administration of tax policies shall cooperate with and assist the committee in the performance of its duties and shall make available all books, records and information requested, except individually identifiable information regarding a specific taxpayer. The committee may also consult with public and private universities and academies, public and private organizations, and private citizens in the performance of its duties. The committee may contract with public and private entities, within the limits of appropriation, for analysis and study of current or proposed changes to state and local tax policy. The committee shall have the power to subpoena witnesses, take testimony under oath, compel the attendance of witnesses, the giving of testimony and the production of records.

34.070. PREFERENCE TO MISSOURI PRODUCTS AND FIRMS. — In making purchases, the commissioner of administration shall give preference to all commodities **and tangible personal property** manufactured, mined, produced or grown within the state of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals, when quality is equal or better and delivered price is the same or less. **The commissioner of administration may also give such preference whenever competing bids, in their entirety, are comparable.**

34.073. MISSOURI BUSINESSES, PERFORMANCE OF JOBS OR SERVICES, PREFERENCE, WHEN. — 1. In letting contracts for the performance of any job or service, all agencies, departments, institutions, and other entities of this state and of each political subdivision of this state shall give preference to all firms, corporations, or individuals doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less. **The commissioner of administration may also give such preference whenever competing bids, in their entirety, are comparable.**

2. Notwithstanding the requirements of subsection 1 of this section, the commissioner of administration shall give further preference as required by section 34.076.

71.611. CERTAIN VILLAGES PROHIBITED FROM IMPOSING A LICENSE TAX IN EXCESS OF $10,000 PER LICENSE. — Notwithstanding any other provision of law to the contrary, after March 31, 2004, no village with less than one thousand three hundred inhabitants shall impose a license tax in excess of ten thousand dollars per license.

99.820. MUNICIPALITIES' POWERS AND DUTIES — COMMISSION APPOINTMENT AND POWERS — PUBLIC DISCLOSURE REQUIREMENTS — OFFICIALS' CONFLICT OF INTEREST, PROHIBITED. — 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment

project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or**, as part of a redevelopment project,** eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, **which property is designated to be acquired or improved**

pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area, is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing

districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

3. The commission, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. The commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of, or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.

137.100. CERTAIN PROPERTY EXEMPT FROM TAXES. — The following subjects are exempt from taxation for state, county or local purposes:

(1) Lands and other property belonging to this state;

(2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments, and on public squares and lots kept open for health, use or ornament;

(3) Nonprofit cemeteries;

(4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state, including not-for-profit agribusiness associations;

(5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;

(6) Household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place**; and**

(7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision.

143.121. MISSOURI ADJUSTED GROSS INCOME. — 1. The Missouri adjusted gross income of a resident individual shall be **[**his**]** **the taxpayer's** federal adjusted gross income subject to the modifications in this section.

2. There shall be added to [his] **the taxpayer's** 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] **pursuant to** 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] **pursuant to** 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] **pursuant to** 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] **other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended,** for **a** 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] **of more than** twenty years and carries backward for [not] more than two years. **Any amount of net operating loss taken against federal income taxes but disallowed against Missouri income taxes pursuant to this paragraph since July 1, 2002, may be carried forward and taken against any loss on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss.**

3. There shall be subtracted from [his] **the taxpayer's** 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] **pursuant to** the laws of the United States. The amount subtracted [under] **pursuant to** 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] **the taxpayer's** federal adjusted gross income or included in [his] **the taxpayer's** 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] **pursuant to chapter 143** of any annuity or other amount of income or gain which was properly included in income or gain and was taxed [under] **pursuant to** 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**]** **section 135.357**, 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**]** **pursuant to** 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**]** **pursuant to** 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**]** **the taxpayer's** 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**]** **the taxpayer's** federal adjusted gross income the modifications provided in section 143.411.

143.181. MISSOURI NONRESIDENT ADJUSTED GROSS INCOME. — 1. The Missouri nonresident adjusted gross income shall be that part of the nonresident individual's federal adjusted gross income derived from sources within Missouri, as modified in the same manner as set forth in section 143.121 with respect to resident individuals. It shall be the sum of:

(1) The net amount of items of income, gain, loss, and deduction entering into his **or her** federal adjusted gross income which are derived from or connected with sources in this state including

(a) **[**His**]** **The individual's** distributive share of partnership income and deductions determined under section 143.421, and

(b) **[**His**]** **The individual's** share of estate or trust income and deductions determined under section 143.391, and

(c) **[**His**]** **The individual's** pro rata share of S corporation income and deductions determined under subsection 3 of section 143.471; and

(2) The portion of the modifications described in section 143.121 which relate to income derived from sources in this state, including any modifications attributable to him **or her** as a partner.

2. Items of income, gain, loss, and deduction derived from or connected with sources within this state are those items attributable to:

(1) The ownership or disposition of any interest in real or tangible personal property in this state; **[**and**]**

(2) A business, trade, profession, or occupation carried on in this state**;**

(3) Winnings from a wager placed in a lottery conducted by the state lottery commission, if the proceeds from such wager are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the state lottery commission to the Internal Revenue Service; and

(4) Winnings from any other wager placed in this state or from any wagering transaction, gaming activity, or gambling activity in this state, if the proceeds from such wager, wagering transaction, gaming activity, or gambling activity are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the payer to the Internal Revenue Service.

3. Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from sources within this state only to the extent that such income is from**:**

(1) Property employed in a business, trade, profession, or occupation carried on in this state**;**

(2) Winnings from a wager placed in a lottery conducted by the state lottery commission, if the proceeds from such wager are required, pursuant to the Internal

Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the state lottery commission to the Internal Revenue Service; and

(3) Winnings from any other wager placed in this state or from any wagering transaction, gaming activity, or gambling activity in this state, if the proceeds from such wager, wagering transaction, gaming activity, or gambling activity are required, pursuant to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by the payer to the Internal Revenue Service.

4. Deductions with respect to capital losses, net long-term capital gains, and net operation losses shall be based solely on income, gains, losses, and deductions derived from sources within this state in the same manner as the corresponding federal deductions under regulations to be prescribed by the director of revenue.

5. If a business, trade, profession, or occupation is carried on partly within and partly without this state, the items of income and deduction derived from or connected with sources within this state shall be determined by apportionment and allocation under regulations to be prescribed by the director of revenue.

6. Compensation paid by the United States for service in the armed forces of the United States performed by a nonresident shall not constitute income derived from sources within this state.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.584, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting

with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility which converts recovered materials into a new product, or a different form which is used in producing a new product, and shall include a facility or equipment which is used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, solely in the transportation of persons or property in interstate commerce;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, solely in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted

by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, **natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo,** and all sales of farm machinery **and equipment**, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery **and equipment**" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon**, and supplies** and lubricants used exclusively **[**for such farm machinery and equipment**], solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail** and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making

nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, which is ultimately consumed in connection with the manufacturing of cellular glass products;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity

to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003.

144.049. SALES TAX HOLIDAY FOR CLOTHING, PERSONAL COMPUTERS, AND SCHOOL SUPPLIES, WHEN — EXPIRATION DATE. — 1. For purposes of this section, the following terms mean:

(1) "Clothing", any article of wearing apparel, including footwear, intended to be worn on or about the human body. The term shall include but not be limited to cloth and other material used to make school uniforms or other school clothing. Items normally sold in pairs shall not be separated to qualify for the exemption. The term shall not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles; and

(2) "Personal computers", a laptop, desktop, or tower computer system which consists of a central processing unit, random access memory, a storage drive, a display monitor, and a keyboard and devices designed for use in conjunction with a personal computer, such as a disk drive, memory module, compact disk drive, daughterboard, digitalizer, microphone, modem, motherboard, mouse, multimedia speaker, printer, scanner, single-user hardware, single-user operating system, soundcard, or video card;

(3) "School supplies", any item normally used by students in a standard classroom for educational purposes, including but not limited to, textbooks, notebooks, paper, writing instruments, crayons, art supplies, rulers, book bags, back packs, handheld calculators, chalk, maps, and globes. The term shall not include watches, radios, CD players, headphones, sporting equipment, portable or desktop telephones, copiers or other office equipment, furniture, or fixtures. School supplies shall also include computer software having a taxable value of two hundred dollars or less.

2. There is hereby specifically exempted from state sales tax law all retail sales of any article of clothing having a taxable value of one hundred dollars or less, all retail sales of school supplies not to exceed fifty dollars per purchase, all computer software with a taxable value of two hundred dollars or less, and all retail sales of personal computers or computer peripheral devices not to exceed two thousand dollars, during a three-day period beginning at 12:01 a.m. on the second Friday in August and ending at midnight on the Sunday following.

3. Beginning on the effective date of this act, the governing body of any political subdivision may adopt an ordinance to prohibit the provisions of this section from exempting sales that occur within the political subdivision from being subject to the local sales taxes applicable to sales within the political subdivision. Upon adoption of such an ordinance, the governing body of the political subdivision shall provide written notice to the department of revenue of the substance of the ordinance. In the event such notification is not received by the department of revenue prior to the second Friday in July in any given year, the ordinance shall not go into effect prior to the year the notice is received.

4. This section shall not apply to any sales which take place within the Missouri state fairgrounds.

5. The provisions of this section shall expire July 1, 2005.

144.615. EXEMPTIONS. — There are specifically exempted from the taxes levied in sections 144.600 to 144.745:

(1) Property, the storage, use or consumption of which this state is prohibited from taxing **[**under**]** **pursuant to** the constitution or laws of the United States or of this state;

(2) Property, the gross receipts from the sale of which are required to be included in the measure of the tax imposed **[**under**]** **pursuant to** the Missouri sales tax law;

(3) Tangible personal property, the sale of which, if made in this state, would be exempt from or not subject to the Missouri sales tax **[**under**]** **pursuant to** the provisions of subsections 2 and 3 of section 144.030;

(4) Motor vehicles, trailers, boats, and outboard motors subject to the tax imposed by section 144.440;

(5) Tangible personal property which has been subjected to a tax by any other state in this respect to its sales or use; provided, if such tax is less than the tax imposed by sections 144.600 to 144.745, such property, if otherwise taxable, shall be subject to a tax equal to the difference between such tax and the tax imposed by sections 144.600 to 144.745;

(6) Tangible personal property held by processors, retailers, importers, manufacturers, wholesalers, or jobbers solely for resale in the regular course of business;

(7) Personal and household effects and farm machinery used while an individual was a bona fide resident of another state and who thereafter became a resident of this state, or tangible personal property brought into the state by a nonresident for his own storage, use or consumption while temporarily within the state.

144.817. SALES TAX EXEMPTION FOR CERTAIN PROPERTY DONATED TO THE STATE WITHIN ONE YEAR OF PURCHASE. — **In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745, and from the computation of the tax levied, assessed, or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761, purchases of any item of tangible personal property which is, within one year of such purchase, donated without charge to the state of Missouri. The exemption prescribed in this section includes purchases of all items of tangible personal property converted into an item donated as a gift to the state of Missouri.**

260.830. LANDFILL FEE AUTHORIZED, COUNTIES OF THIRD AND FOURTH CLASSIFICATION — APPROVAL, BALLOT, LIMITATION. — 1. Any county of the third classification **or any county of the fourth classification with more than forty-eight thousand two hundred but less than forty-eight thousand three hundred inhabitants** may, by a majority vote of its governing body, impose a landfill fee pursuant to sections 260.830 and 260.831, for the benefit

of the county. No order or ordinance enacted pursuant to the authority granted by this section shall be effective unless the governing body of the county submits to the qualified voters of the county, at a public election, a proposal to authorize the governing body of the county to impose a fee under the provisions of this section. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a landfill fee of ..... (insert amount of fee per ton or volumetric equivalent of solid waste)?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the order or ordinance and any amendments thereto shall become effective on the first day of the calendar quarter immediately after such election results are certified. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the fee authorized by this section unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to impose such fee, and the proposal is approved by a majority of the qualified voters voting thereon. If an economic development authority does not exist in a county at the time that a landfill fee is adopted by such county under this section, then the governing body of such county shall establish an economic development authority in the county.

2. The landfill fee authorized by such an election may not exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted, which charge may be in addition to any such fee currently imposed pursuant to the provisions of section 260.330.

Approved July 10, 2003

SB 12 [HCS SB 12]

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

Enacts the Religious Freedom Restoration Act.

AN ACT to amend chapter 1, RSMo, by adding thereto two new sections relating to prohibition of interference with the free exercise of religion.

SECTION

A. Enacting clause.
1.302. Religious freedom restoration act.
1.307. Laws not to eliminate defense to a civil action or criminal prosecution based on federal, state or local civil rights — relevant circumstances defined.

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

SECTION A. ENACTING CLAUSE. — Chapter 1, RSMo, is amended by adding thereto two new sections, to be known as sections 1.302 and 1.307, to read as follows:

1.302. RELIGIOUS FREEDOM RESTORATION ACT. — 1. A governmental authority may not restrict a person's free exercise of religion, unless:

(1) The restriction is in the form of a rule of general applicability, and does not discriminate against religion, or among religions; and

(2) The governmental authority demonstrates that application of the restriction to the person is essential to further a compelling governmental interest, and is not unduly restrictive considering the relevant circumstances.

2. As used in this section, "exercise of religion" shall be defined as an act or refusal to act that is substantially motivated by religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief.

3. As used in this section "demonstrates" means meets the burden of going forward with the evidence and of persuasion.

1.307. LAWS NOT TO ELIMINATE DEFENSE TO A CIVIL ACTION OR CRIMINAL PROSECUTION BASED ON FEDERAL, STATE OR LOCAL CIVIL RIGHTS — RELEVANT CIRCUMSTANCES DEFINED. — 1. Sections 1.302 to 1.307 apply to all state and local laws, resolutions and ordinances and the implementation of such laws, resolutions, and ordinances, whether statutory or otherwise, and whether adopted before or after the effective date of sections 1.302 to 1.307.

2. Nothing in sections 1.302 to 1.307 shall be construed to authorize any government to burden any religious belief, except that nothing in these sections shall be construed to establish or eliminate a defense to a civil action or criminal prosecution based on a federal, state, or local civil rights law.

3. Nothing in sections 1.302 to 1.307 shall be construed as allowing any person to cause physical injury to another person, to possess a weapon otherwise prohibited by law, to fail to provide monetary support for a child or to fail to provide health care for a child suffering from a life threatening condition.

4. "Relevant circumstances" may include legitimate penological interests needed to protect the safety and security of incarcerated persons and correctional facilities, but shall not include reasonable requests by incarcerated individuals for the opportunity to pray, reasonable access to clergy, use of religious materials that are not violent or profane, and reasonable dietary requests.

Approved July 9, 2003

SB 14 [SB 14]

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

Revises maximum allowable salary for certain Kansas City police officers.

AN ACT to repeal section 84.510, RSMo, relating to certain police officers, and to enact in lieu thereof one new section relating to the same subject.

SECTION
A. Enacting clause.
84.510. Police officers and officials — appointment — compensation (Kansas City).

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

SECTION A. ENACTING CLAUSE. — Section 84.510, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 84.510, to read as follows:

84.510. POLICE OFFICERS AND OFFICIALS — APPOINTMENT — COMPENSATION (KANSAS CITY). — 1. For the purpose of operation of the police department herein created, the chief of police, with the approval of the board, shall appoint such number of police department employees, including police officers and civilian employees as the chief of police from time to time deems necessary.

2. The base annual compensation of police officers shall be as follows for the several ranks:

(1) Lieutenant colonels, not to exceed five in number, at not less than seventy-one thousand nine hundred sixty-nine dollars, nor more than **[**ninety-nine thousand six hundred sixty**]** **one hundred six thousand seven hundred sixty-four** dollars per annum each;

(2) Majors at not less than sixty-four thousand six hundred seventy-one dollars, nor more than **[**eighty-five thousand eight hundred forty-eight**]** **ninety-seven thousand four hundred four** dollars per annum each;

(3) Captains at not less than fifty-nine thousand five hundred thirty-nine dollars, nor more than **[**eighty-one thousand seven hundred forty-four**]** **eighty-eight thousand eight hundred sixty** dollars per annum each;

(4) Sergeants at not less than forty-eight thousand six hundred fifty-nine dollars, nor more than **[**sixty-six thousand nine hundred seventy-two**]** **seventy-one thousand seven hundred forty-eight** dollars per annum each;

(5) Detectives and police officers at not less than twenty-six thousand six hundred forty-three dollars, nor more than **[**fifty-nine thousand four hundred twelve**]** **sixty-three thousand six hundred forty-eight** dollars per annum each.

3. The board of police commissioners has the authority by resolution to effect a comprehensive pay schedule program to provide for step increases with separate pay rates within each rank, in the above-specified salary ranges from police officers through chief of police.

4. Officers assigned to wear civilian clothes in the performance of their regular duties may receive an additional seventy-five dollars per month clothing allowance. Uniformed officers may receive fifty dollars per month uniform maintenance allowance.

5. The chief of police, subject to the approval of the board, shall establish the total regular working hours for all police department employees, and the board has the power, upon recommendation of the chief, to pay additional compensation for all hours of service rendered in excess of the established regular working period, but the rate of overtime compensation shall not exceed one and one-half times the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given nor deductions made from payments for overtime for the purpose of retirement benefits.

6. The board of police commissioners, by majority affirmative vote, including the mayor, has the authority by resolution to authorize incentive pay in addition to the base compensation of police officers and detectives below the rank of sergeant as provided for in subsection 2 of this section, to be paid officers who they determine are assigned duties which require an extra-ordinary degree of skill, technical knowledge and ability, or which are highly demanding or unusual. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

7. The board of police commissioners may effect programs to provide additional compensation for successful completion of academic work at an accredited college or university. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

8. The additional pay increments provided in subsections 6 and 7 of this section shall not be considered a part of the base compensation of police officers and shall not exceed five percent of what the officer would otherwise be entitled to pursuant to subsections 2 and 3 of this section.

9. Not more than twenty-five percent of the officers in any rank below the rank of sergeant who are receiving the maximum rate of pay authorized by subsections 2 and 3 of this section may receive the additional pay increments authorized by subsections 6 and 7 of this section at any given time. However, any officer receiving a pay increment provided pursuant to the

provisions of subsections 6 and 7 of this section shall not be deprived of such pay increment as a result of the limitations of this subsection.

Approved May 8, 2003

SB 16 [HCS SCS SB 16]

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

Allows first class counties to retain a larger percentage of a portion of the assessed valuation.

AN ACT to repeal section 137.721, RSMo, and to enact in lieu thereof one new section relating to the percentage of ad valorem property tax collections to be deposited in county assessment funds.

SECTION
A. Enacting clause.
137.721. Percentage of ad valorem property tax collections to be deposited in county assessment fund (certain first class counties).

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

SECTION A. ENACTING CLAUSE. — Section 137.721, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.721, to read as follows:

137.721. PERCENTAGE OF AD VALOREM PROPERTY TAX COLLECTIONS TO BE DEPOSITED IN COUNTY ASSESSMENT FUND (CERTAIN FIRST CLASS COUNTIES). — Notwithstanding the provisions of section 137.720, in all counties which become counties of the first classification after September 1, **[**2000**]** **1998**, one percent of all ad valorem taxes allocable to the county and each taxing authority within the county shall continue to be deducted from taxes collected on the first five hundred million dollars of assessed valuation, and one-half percent collected on the remainder, and deposited in the assessment fund. The one-percent fee shall be assigned among the political subdivisions by the assessor, who shall determine the percentage of total valuation in the county divided into five hundred million dollars. The collector shall retain one percent of that percentage of each political subdivision's property taxes, and one-half percent of the remainder, for the assessment fund.

Approved July 1, 2003

SB 30 [HCS SS SCS SB 30]

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 Amber Alert System.

AN ACT to repeal section 43.400, RSMo, and to enact in lieu thereof three new sections relating to missing persons, with penalty provisions.

SECTION
A. Enacting clause.
43.400. Definitions.
210.1012. Amber alert system created — department to develop system regions — false report, penalty.
210.1014. Amber alert system oversight committee created, duties, members, compensation — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Section 43.400, RSMo, is repealed and three news sections enacted in lieu thereof, to be known as section 43.400, 210.1012, and 210.1014, to read as follows:

43.400. DEFINITIONS. — As used in sections 43.400 to 43.410, the following terms mean:

(1) "Missing child" or "missing juvenile", any person who is under the age of seventeen years, whose temporary or permanent residence is in the state of Missouri or who is believed to be within the state of Missouri, whose location has not been determined, and who has been reported as missing to a law enforcement agency;

(2) "Missing child report", a report prepared on a standard form supplied by the Missouri state highway patrol for the use by private citizens and law enforcement agencies to report missing children or missing juvenile information to the Missouri state highway patrol;

(3) "Missing person", a person who is missing and meets one of the following characteristics:

(a) Is physically or mentally disabled to the degree that the person is dependent upon an agency or another individual;

(b) **[**Was or is in the company of another person**] Is missing** under circumstances indicating that the missing person's safety may be in danger;

(c) Is missing under **[**circumstances indicating that the disappearance was not voluntary**] involuntary or unknown circumstances**; **subject to the provisions of (a), (b), (d), (e), and (f) of this subsection;**

(d) Is a child or juvenile runaway from the residence of a parent **[**or**] ,** legal guardian**, or custodian**;

(e) Is a child and is missing under circumstances indicating that the person was or is in the presence of or under the control of a party whose presence or control was or is in violation of a permanent or temporary court order and fourteen or more days have elapsed, during which time the party has failed to file any pleading with the court seeking modification of the permanent or temporary court order;

(f) Is missing under circumstances indicating that the person was or is in the presence of or under the control of a party whose presence or control was or is in violation of a permanent or temporary court order and there are reasonable grounds to believe that the person may be taken outside of the United States;

(4) "Patrol", the Missouri state highway patrol;

(5) "Registrar", the state registrar of vital statistics.

210.1012. AMBER ALERT SYSTEM CREATED — DEPARTMENT TO DEVELOP SYSTEM REGIONS — FALSE REPORT, PENALTY. — **1. There is hereby created a statewide program called the "Amber Alert System" referred to in this section as the "system", to aid in the identification and location of abducted persons.**

2. For the purposes of this section, "abducted person" means a person whose whereabouts are unknown and who is reasonably believed to be the victim of the crime

of kidnapping as defined by section 565.110, RSMo, as determined by local law enforcement.

3. The department of public safety shall develop regions to provide the system. The department of public safety shall coordinate local law enforcement agencies and public commercial television and radio broadcasters to provide an effective system. In the event that a local law enforcement agency opts not to set up a system and an abduction occurs within the jurisdiction, it shall notify the department of public safety who will notify local media in the region.

4. The amber alert system shall include all state agencies capable of providing urgent and timely information to the public together with broadcasters and other private entities that volunteer to participate in the dissemination of urgent public information. At a minimum, the amber alert system shall include the department of public safety, highway patrol, department of transportation, department of health and senior services, and Missouri lottery.

5. The department of public safety shall have the authority to notify other regions upon verification that the criteria established by the oversight committee has been met.

6. Participation in an amber alert system is entirely at the option of local law enforcement agencies and federally-licensed radio and television broadcasters.

7. Any person who knowingly makes a false report that triggers an alert pursuant to this section is guilty of a class A misdemeanor.

210.1014. AMBER ALERT SYSTEM OVERSIGHT COMMITTEE CREATED, DUTIES, MEMBERS, COMPENSATION — RULEMAKING AUTHORITY. — 1. There is hereby created the "Amber Alert System Oversight Committee", whose primary duty shall be to develop criteria and procedures for the amber alert system and shall be housed within the department of public safety. The committee shall regularly review the function of the amber alert system and revise its criteria and procedures in cooperation with the department of public safety to provide for efficient and effective public notification. As soon as practicable, the committee shall adopt criteria and procedures to expand the amber alert system to provide urgent public alerts related to homeland security, criminal acts, health emergencies, and other imminent dangers to the public health and welfare.

2. The amber alert system oversight committee shall consist of ten members of which seven members shall be appointed by the governor with the advice and consent of the senate. Such members shall represent the following entities: two representatives of the Missouri sheriff's association; two representatives of the Missouri police chief's association; one representative of small market radio broadcasters; one representative of large market radio broadcasters; one representative of television broadcasters. The director of the department of public safety shall also be a member of the committee and shall serve as chair of the committee. Additional members shall include one representative of the highway patrol and one representative of the department of health and senior services.

3. Members of the oversight committee shall serve a term of four years, except that members first appointed to the committee shall have staggered terms of two, three, and four years and shall serve until their successor is duly appointed and qualified.

4. Members of the oversight committee shall serve without compensation, except that members shall be reimbursed for their actual and necessary expenses required for the discharge of their duties.

5. The amber alert system oversight committee shall promulgate rules for the implementation of the amber alert system. 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, 2003, shall be invalid and void.

Approved July 11, 2003

SB 39 [CCS HCS SB 39]

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

Revises numerous provisions relating to emergency services.

AN ACT to repeal sections 195.211, 195.214, 195.218, 195.417, and 650.105, RSMo, and to enact in lieu thereof nine new sections relating to methamphetamine, with penalty provisions.

SECTION

A. Enacting clause.
195.211. Distribution, delivery, manufacture or production of a controlled substance, violations and attempted violations, penalty.
195.214. Distribution of a controlled substance near schools, penalty.
195.218. Distribution of controlled substance near public housing — penalty.
195.417. Limit on over-the-counter sale of certain drugs, exceptions — violations, penalty.
488.029. Surcharge for crime lab analysis of controlled substances, deposit of moneys in state forensic laboratory account.
577.075. Anhydrous ammonia, unlawful to release or to allow escape into atmosphere, penalty.
650.105. Assistance program established — distribution of state funds — access to laboratories — limitation on establishment of new laboratories.
650.350. Missouri sheriff methamphetamine relief taskforce created, members, compensation, meetings — MoSMART fund created — rulemaking authority.
1. Violations of chapter, defendant to pay costs of testing when found guilty.

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

SECTION A. ENACTING CLAUSE. — Sections 195.211, 195.214, 195.218, 195.417, and 650.105, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 195.211, 195.214, 195.218, 195.417, 488.029, 577.075, 650.105, 650.350, and 1, to read as follows:

195.211. DISTRIBUTION, DELIVERY, MANUFACTURE OR PRODUCTION OF A CONTROLLED SUBSTANCE, VIOLATIONS AND ATTEMPTED VIOLATIONS, PENALTY. — 1. Except as authorized by sections 195.005 to 195.425 and except as provided in section 195.222, it is unlawful for any person to distribute, deliver, manufacture, produce or attempt to distribute, deliver, manufacture or produce a controlled substance or to possess with intent to distribute, deliver, manufacture, or produce a controlled substance.

2. Any person who violates or attempts to violate this section with respect to manufacturing or production of a controlled substance of any amount except for five grams or less of marijuana in a residence where a child resides or within two thousand feet of the real property comprising a public or private elementary or public or private elementary or secondary school, public vocational school or a public or private junior college, college or university, or any school bus is guilty of a class A felony.

[2.**]** **3.** Any person who violates or attempts to violate this section with respect to any controlled substance except five grams or less of marijuana is guilty of a class B felony.

[3.**]** **4.** Any person who violates this section with respect to distributing or delivering not more than five grams of marijuana is guilty of a class C felony.

195.214. DISTRIBUTION OF A CONTROLLED SUBSTANCE NEAR SCHOOLS, PENALTY. — 1. A person commits the offense of distribution of a controlled substance near schools if such person violates section 195.211 by unlawfully distributing or delivering any controlled substance to a person in or on, or within two thousand feet of, the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private junior college, college or university or on any school bus.

2. Distribution of a controlled substance near schools is a class A felony **which term shall be served without probation or parole if the court finds the defendant is a persistent drug offender**.

195.218. DISTRIBUTION OF CONTROLLED SUBSTANCE NEAR PUBLIC HOUSING — PENALTY. — 1. A person commits the offense of distribution of a controlled substance near public housing or other governmental assisted housing if he violates section 195.211 by unlawfully distributing or delivering any controlled substance to a person in or on, or within one thousand feet of the real property comprising public housing or other governmental assisted housing.

2. Distribution of a controlled substance near public housing or other governmental assisted housing is a class A felony **which term shall be served without probation or parole if the court finds the defendant is a persistent drug offender**.

195.417. LIMIT ON OVER-THE-COUNTER SALE OF CERTAIN DRUGS, EXCEPTIONS — VIOLATIONS, PENALTY. — 1. No person shall deliver in any single over-the-counter sale more than **[**three**]:**

(1) Two packages **or any number of packages that contain a combined total of no more than six grams,** of any **[**methamphetamine precursor drug or any combination of methamphetamine precursor drugs.

2.**]** **drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers; or**

(2) Three packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, or any number of packages of said combination drug that contain a combined total of no more than nine grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.

2. All packages of any drug having a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, shall be displayed and offered for sale only behind a checkout counter where the public is not permitted, or within ten feet and an unobstructed view of an attended checkout counter. This subsection shall not apply to any retailer utilizing an electronic anti-theft system that utilizes a product tag and detection alarm which specifically prevents the theft of such drugs from the place of business where such drugs are sold.

3. This section shall supersede any municipal ordinances or regulations passed on or after December 23, 2002, to the extent that such ordinances or regulations are more restrictive than the provisions of this section. This section shall not apply to any product labeled pursuant to federal regulation for use only in children under twelve years of age, or to any products that the state department of health and senior services, upon application of a

manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors **or to the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra**.

[3.**]** **4.** Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

[4.**]** **5.** Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

488.029. SURCHARGE FOR CRIME LAB ANALYSIS OF CONTROLLED SUBSTANCES, DEPOSIT OF MONEYS IN STATE FORENSIC LABORATORY ACCOUNT. — There shall be assessed and collected a surcharge of one hundred fifty dollars in all criminal cases for any violation of chapter 195, RSMo, in which a crime laboratory makes analysis of a controlled substance, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state or when a criminal proceeding or the defendant has been dismissed by the court. The moneys collected by clerks of the courts pursuant to the provisions of this section shall be collected and disbursed as provided by section 448.010 to 488.020. All such moneys shall be payable to the director of revenue, who shall deposit all amounts collected pursuant to this section to the credit of the state forensic laboratory account to be administered by the department of public safety pursuant to section 650.105, RSMo.

577.075. ANHYDROUS AMMONIA, UNLAWFUL TO RELEASE OR TO ALLOW ESCAPE INTO ATMOSPHERE, PENALTY. — 1. It shall be unlawful for any person not the owner or not in lawful control of an approved container of anhydrous ammonia to release or allow the escape of anhydrous ammonia into the atmosphere.

2. Unlawful release of anhydrous ammonia is a class B felony, unless such release causes death of a human being or causes serious physical injury to any person in which case it is a class A felony.

650.105. ASSISTANCE PROGRAM ESTABLISHED — DISTRIBUTION OF STATE FUNDS — ACCESS TO LABORATORIES — LIMITATION ON ESTABLISHMENT OF NEW LABORATORIES. — 1. There is hereby created the "Missouri Crime Laboratory Assistance Program" within the department of public safety. The purpose of this program is to provide state financial assistance to defray part of the operational costs incurred by crime laboratories.

2. Funds that are appropriated **and collected pursuant to section 488.029, RSMo,** for this program shall be appropriated to the department.

3. Distribution of these state funds shall be by contractual arrangement between the department and each respective laboratory providing the service. Terms of the contract shall be negotiable each year. The state auditor shall audit from time to time all crime laboratories receiving state funds.

4. Nothing in sections 650.100 and 650.105 shall prohibit any crime laboratory from receiving federal or local funds should such funds become available.

5. All law enforcement agencies, municipal, county and state, shall have access to crime laboratories funded hereunder.

6. No state funds shall be expended unless appropriated by the general assembly for this purpose.

7. No new crime laboratories shall be started with state funds until authorized by the general assembly.

650.350. MISSOURI SHERIFF METHAMPHETAMINE RELIEF TASKFORCE CREATED, MEMBERS, COMPENSATION, MEETINGS — MOSMART FUND CREATED — RULEMAKING AUTHORITY. — 1. There is hereby created within the department of public safety the "Missouri Sheriff Methamphetamine Relief Taskforce" (MoSMART). MoSMART shall be composed of five sitting sheriffs. Every two years, the Missouri sheriffs' association board of directors will submit twenty names of sitting sheriffs to the governor. The governor shall appoint five members from the list of twenty names, having no more than three from any one political party, to serve a term of two years on MoSMART. The members shall elect a chair from among their membership. Members shall receive no compensation for the performance of their duties pursuant to this section, but each member shall be reimbursed from the MoSMART fund for actual and necessary expenses incurred in carrying out duties pursuant to this section.

2. MoSMART shall meet no less than twice each calendar year with additional meetings called by the chair upon the request of at least two members. A majority of the appointed members shall constitute a quorum.

3. A special fund is hereby created in the state treasury to be know as the "MoSMART Fund". The state treasurer shall invest the moneys in such fund in the manner authorized by law. All moneys received for MoSMART from interest, state, and federal moneys shall be deposited to the credit of the fund. The director of the department of public safety shall distribute at least fifty percent but not more than one hundred percent of the fund annually in the form of grants approved by MoSMART.

4. All moneys appropriated to or received by MoSMART shall be deposited and credited to the MoSMART fund. The department of public safety shall only be reimbursed for actual and necessary expenses for the administration of MoSMART, which shall be no less than one percent and which shall not exceed two percent of all moneys appropriated to the fund. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the MoSMART fund shall not lapse to general revenue at the end of the biennium.

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, 2003, shall be invalid and void.

6. Any county law enforcement entity or established task force with a memorandum of understanding and protocol may apply for grants from the MoSMART fund on an application to be developed by the department of public safety with the approval of MoSMART. All applications shall be evaluated by MoSMART and approved or denied based upon the level of funding designated for methamphetamine enforcement before 1997 and upon current need and circumstances. No applicant shall receive a MoSMART grant in excess of one hundred thousand dollars per year. The department of public safety shall monitor all MoSMART grants.

7. MoSMART's anti-methamphetamine funding priorities are as follows:

(1) Sheriffs who are participating in coordinated multi-jurisdictional task forces and have their task forces apply for funding;

(2) Sheriffs whose county has been designated HIDTA counties, yet have received no HIDTA or narcotics assistance program funding; and

(3) Sheriffs without HIDTA designations or task forces, whose application justifies the need for MoSMART funds to eliminate methamphetamine labs.

SECTION 1. VIOLATIONS OF CHAPTER, DEFENDANT TO PAY COSTS OF TESTING WHEN FOUND GUILTY. — In any case where there is a violation of chapter 195, RSMo, a judge may, upon a finding of guilty, order a defendant to pay for costs for testing of the substances at a private laboratory.

Approved June 24, 2003

SB 50 [SB 50]

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

Modifies time for election authority to complete verification of initiative or referendum petition signatures.

AN ACT to repeal section 116.130, RSMo, relating to verification of signatures on initiative or referendum petitions, and to enact in lieu thereof one new section relating to the same subject.

SECTION
A. Enacting clause.
116.130. Election authorities may be requested to verify signatures either by random sampling or checking signatures, when, how.

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

SECTION A. ENACTING CLAUSE. — Section 116.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 116.130, to read as follows:

116.130. ELECTION AUTHORITIES MAY BE REQUESTED TO VERIFY SIGNATURES EITHER BY RANDOM SAMPLING OR CHECKING SIGNATURES, WHEN, HOW. — 1. The secretary of state may send copies of petition pages to election authorities to verify that the persons whose names are listed as signers to the petition are registered voters. Such verification may either be of each signature or by random sampling as provided in section 116.120, as the secretary shall direct. If copies of the petition pages are sent to an election authority for verification, such copies shall be sent pursuant to the following schedule:

(1) Copies of all pages from not less than one petition shall be received in the office of the election authority not later than two weeks after the petition is filed in the office of secretary of state;

(2) Copies of all pages of a total of three petitions shall be received in the office of the election authority not later than three weeks after the petition is filed in the office of the secretary of state;

(3) If more than three petitions are filed, all copies of petition pages, including those petitions selected for verification by random sample pursuant to section 116.120, shall be received in the office of the election authority not later than the fourth week after the petition is filed in the office of the secretary of state.

Each election authority shall check the signatures against voter registration records in the election authority's jurisdiction, but the election authority shall count as valid only the signatures of

persons registered as voters in the county named in the circulator's affidavit. Signatures shall not be counted as valid if they have been struck through or crossed out.

2. If the election authority is requested to verify the petition by random sampling, such verification shall be completed and certified not later than **[**two weeks**]** **thirty days** from the date that the election authority receives the petition from the secretary of state. If the election authority is to verify each signature, such verification must be completed, certified and delivered to the secretary of state by 5:00 p.m. on the last Tuesday in July prior to the election, or in the event of complete verification of signatures after a failed random sample, full verification shall be completed, certified and delivered to the secretary of state by 5:00 p.m. on the last Tuesday in July or by 5:00 p.m. on the Friday of the fifth week after receipt of the signatures by the local election authority, whichever is later.

3. If the election authority or the secretary of state determines that the congressional district number written after the signature of any voter is not the congressional district of which the voter is a resident, the election authority or the secretary of state shall correct the congressional district number on the petition page. Failure of a voter to give the voter's correct congressional district number shall not by itself be grounds for not counting the voter's signature.

4. The election authority shall return the copies of the petition pages to the secretary of state with annotations regarding any invalid or questionable signatures which the election authority has been asked to check by the secretary of state. The election authority shall verify the number of pages received for that county, and also certify the total number of valid signatures of voters from each congressional district which the election authority has been asked to check by the secretary of state.

5. The secretary of state is authorized to adopt rules to ensure uniform, complete, and accurate checking of petition signatures either by actual count or random sampling. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to the provisions of **[**section 536.024**]** **chapter 536**, RSMo.

6. After a period of three years from the time of submission of the petitions to the secretary of state, the secretary of state, if the secretary determines that retention of such petitions is no longer necessary, may destroy such petitions.

Approved May 8, 2003

SB 52 [CCS HCS SCS#2 SB 52]

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 nonresident athletes and entertainers tax.

AN ACT to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to the taxation of nonresident professional athletes and entertainers.

SECTION

A. Enacting clause.

143.183. Professional athletes and entertainers, state income tax revenues from nonresidents — transfers to Missouri arts council trust fund, Missouri humanities council trust fund, Missouri state library networking fund, Missouri public television broadcasting corporation special fund and Missouri historic preservation revolving fund.

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

SECTION A. ENACTING CLAUSE. — Section 143.183, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.183, to read as follows:

143.183. PROFESSIONAL ATHLETES AND ENTERTAINERS, STATE INCOME TAX REVENUES FROM NONRESIDENTS — TRANSFERS TO MISSOURI ARTS COUNCIL TRUST FUND, MISSOURI HUMANITIES COUNCIL TRUST FUND, MISSOURI STATE LIBRARY NETWORKING FUND, MISSOURI PUBLIC TELEVISION BROADCASTING CORPORATION SPECIAL FUND AND MISSOURI HISTORIC PRESERVATION REVOLVING FUND. — 1. As used in this section, the following terms mean:

(1) "Nonresident entertainer", a person residing or registered as a corporation outside this state who, for compensation, performs any vocal, instrumental, musical, comedy, dramatic, dance or other performance in this state before a live audience and any other person traveling with and performing services on behalf of a nonresident entertainer, including a nonresident entertainer who is paid compensation for providing entertainment as an independent contractor, a partnership that is paid compensation for entertainment provided by nonresident entertainers, a corporation that is paid compensation for entertainment provided by nonresident entertainers, or any other entity that is paid compensation for entertainment provided by nonresident entertainers;

(2) "Nonresident member of a professional athletic team", a **[**member of a**]** professional athletic team **[**residing**]** **member who resides** outside this state, including any active player, any player on the disabled list if such player is in uniform on the day of the game at the site of the game, and any other person traveling with and performing services on behalf of a professional athletic team;

(3) "Personal service income" includes exhibition and regular season salaries and wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and any other type of compensation paid to the nonresident entertainer or nonresident member of a professional athletic team, but does not include prizes, bonuses or incentive money received from competition in a livestock, equine or rodeo performance, exhibition or show;

(4) "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer and hockey team.

2. Any person**, venue,** or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax, an amount equal to two percent of the total compensation **if the amount of compensation is in excess of three hundred dollars** paid to the nonresident entertainer.

3. Any person**, venue,** or entity required to deduct and withhold tax pursuant to subsection 2 of this section, shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, remit the taxes withheld in such form or return as prescribed by the director of revenue and pay over to the director of revenue or to a depository designated by the director of revenue the taxes so required to be deducted and withheld.

4. Any person, venue, or entity subject to this section shall be considered an employer for purposes of section 143.191, and shall be subject to all penalties, interest, and additions to tax provided in this chapter for failure to comply with this section.

[4.**]** **5.** Notwithstanding other provisions of this chapter to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, **[**2008**]** **2015**, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**nine**]** **sixteen** years, sixty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred**[**, subject to appropriation,**]** from the general revenue fund to the Missouri arts council trust fund established in section 185.100, RSMo, and any amount transferred shall be in addition to such agency's

budget base for each fiscal year. Notwithstanding other provisions of this section, the Missouri arts council shall not be appropriated more than ten million dollars in any fiscal year. The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri.

[5.**]** **6.** Notwithstanding the provisions of sections 186.050 to 186.067, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2008**]** **2015**, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**nine**]** **sixteen** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri humanities council trust fund, and shall be transferred**[**, subject to appropriation,**]** from the general revenue fund to the Missouri humanities council trust fund established in section 186.055, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

[6.**]** **7.** Notwithstanding other provisions of section 182.812, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2008**]** **2015**, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**nine**]** **sixteen** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri state library networking fund, and shall be transferred**[**, subject to appropriation,**]** from the general revenue fund to the secretary of state for distribution to public libraries for acquisition of library materials as established in section 182.812, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

[7.**]** **8.** Notwithstanding other provisions of section 37.200, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2008**]** **2015**, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**nine**]** **sixteen** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred**[**, subject to appropriation,**]** from the general revenue fund to the Missouri public television broadcasting corporation special fund established in section 37.200, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year; provided, however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

[8.**]** **9.** Notwithstanding other provisions of section 253.402, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2008**]** **2015**, shall estimate annually the amount of state income tax

revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**nine**]** **sixteen** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred**[**, subject to appropriation,**]** from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year. As authorized pursuant to subsection 2 of section 30.953, RSMo, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100, RSMo, and the Missouri humanities council trust fund established pursuant to section 186.055, RSMo. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council trust fund, **[**on**]** **no earlier than** January 2, 2009; and the Missouri humanities council trust fund, **[**on**]** **no earlier than** January 2, 2009.

Approved July 10, 2003

SB 54 [SB 54]

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

Allows biennial vehicle emissions testing in certain attainment areas.

AN ACT to repeal sections 301.147 and 307.366 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bills nos. 603, 722 and 783, ninetieth general assembly, first regular session, 307.366 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, 643.310 and 643.315, RSMo, and to enact in lieu thereof four new sections relating to motor vehicles.

SECTION

A. Enacting clause.
301.147. Biennial registration, requirements, fee — rulemaking authority, procedure — staggering registration periods.
307.366. Motor vehicle emissions tested, mandated by Congress, nonattainment areas — exempt vehicles — certificate — motor vehicle dealers may sell with or without inspection, procedure, penalty — fee — waiver — failure to pass, result — fund created, source, use and investment of funds — inspection stations, duties — highway patrol, duties — violation, penalty.
307.366. Motor vehicle emissions tested, mandated by Congress, nonattainment areas — exempt vehicles — certificate — motor vehicle dealers may sell with or without inspection, procedure, penalty — fee — waiver — failure to pass, result — fund created, source, use and investment of funds — inspection stations, duties — highway patrol, duties — violation, penalty.
643.310. Commission to establish motor vehicle emissions inspection program, certain cities and counties, exceptions — request attorney general to bring lawsuit — interagency agreement for enforcement, when — selection of person to operate inspection facility or program, procedure, contract requirement — program criteria — selection of contractors, minorities, motor vehicle dealers — sale of analyzer to department when — reformulated gasoline in nonattainment area.
643.315. Motor vehicles subject to program, when, exceptions — reciprocity with other states — dealer inspection, return of motor vehicle for failing inspection, options, violation.

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

SECTION A. ENACTING CLAUSE. — Sections 301.147 and 307.366 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bills nos. 603, 722 and 783, ninetieth general assembly, first regular session, 307.366 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, 643.310 and 643.315, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 301.147, 307.366, 643.310, and 643.315, to read as follows:

301.147. BIENNIAL REGISTRATION, REQUIREMENTS, FEE — RULEMAKING AUTHORITY, PROCEDURE — STAGGERING REGISTRATION PERIODS. — 1. Notwithstanding the provisions of section 301.020 to the contrary, beginning July 1, 2000, the director of revenue may provide owners of motor vehicles, other than commercial motor vehicles licensed in excess of twelve thousand pounds gross weight, the option of biennially registering motor vehicles. Any vehicle manufactured as an even-numbered model year vehicle shall be renewed each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be renewed each odd-numbered calendar year, subject to the following requirements:

(1) The fee collected at the time of biennial registration shall include the annual registration fee plus a pro rata amount for the additional twelve months of the biennial registration;

(2) Presentation of all documentation otherwise required by law for vehicle registration including, but not limited to, a personal property tax receipt or certified statement for the preceding year that no such taxes were due as set forth in section 301.025, proof of a motor vehicle safety inspection and any applicable emission inspection conducted within sixty days prior to the date of application and proof of insurance as required by section 303.026, RSMo**[**;

(3) For those motor vehicles owned by a person who resides in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census who chooses biennial registration pursuant to this section and who does not submit proof of an emission inspection pursuant to section 643.315, RSMo, but instead submits proof of an emission inspection pursuant to section 307.366, RSMo, the director of the department of revenue shall issue a motor vehicle registration tab valid only for one year. The year following issuance to a person of a motor vehicle registration tab valid only for one year, the director or the director's authorized designee shall, upon notification of any such person's completed emission inspection pursuant to section 307.366, RSMo, by the department of natural resources or its designee, without further application or proof issue such person an additional motor vehicle registration tab valid for the remaining biennial period**]**.

2. The director of revenue may prescribe rules and regulations for the effective administration of this section. The director is authorized to adopt those rules that are reasonable and necessary to accomplish the limited duties specifically delegated within this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July 1, 2000, shall be invalid and void.

3. The director of revenue shall have the authority to stagger the registration period of motor vehicles other than commercial motor vehicles licensed in excess of twelve thousand pounds gross weight. Once the owner of a motor vehicle chooses the option of biennial registration, such registration must be maintained for the full twenty-four month period.

[307.366. MOTOR VEHICLE EMISSIONS TESTED, MANDATED BY CONGRESS, NON-ATTAINMENT AREAS — EXEMPT VEHICLES — CERTIFICATE — MOTOR VEHICLE DEALERS

MAY SELL WITH OR WITHOUT INSPECTION, PROCEDURE, PENALTY — FEE — WAIVER — FAILURE TO PASS, RESULT — FUND CREATED, SOURCE, USE AND INVESTMENT OF FUNDS — INSPECTION STATIONS, DUTIES — HIGHWAY PATROL, DUTIES — VIOLATION, PENALTY. — 1. This enactment of the emissions inspection program is a mandate of the United States Congress pursuant to the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. In any city not within a county, any county of the first classification having a population of over nine hundred thousand inhabitants according to the most recent decennial census, any county of the first classification with a charter form of government and a population of not more than two hundred twenty thousand inhabitants and not less than two hundred thousand inhabitants according to the most recent decennial census, any county of the first classification without a charter form of government with a population of not more than one hundred eighty thousand inhabitants and not less than one hundred seventy thousand inhabitants according to the most recent decennial census and any county of the first classification without a charter form of government with a population of not more than eighty-two thousand inhabitants and not less than eighty thousand inhabitants according to the most recent decennial census certain motor vehicles shall be tested annually to determine that the emissions system is functioning within the emission standards as specified by the Missouri air conservation commission and as required to attain the national health standards for air quality. The motor vehicles to be tested shall be all motor vehicles except those specifically exempted pursuant to subdivisions (1) to (3) of subsection 1 of section 307.350 and those exempted pursuant to this section.

2. The provisions of this section shall not apply to:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles;

(3) Model year vehicles prior to 1971;

(4) School buses;

(5) Diesel-powered vehicles;

(6) Motor vehicles registered in the area covered by this section but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of such vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area; and

(7) New motor vehicles not previously titled or registered prior to the initial motor vehicle registration or the next succeeding registration which is required by law. Each official inspection station which conducts safety or emissions inspections in a city or county referred to in subsection 1 of this section shall indicate the gross vehicle weight rating of the motor vehicle on the safety inspection certificate if the vehicle is exempt from the emissions inspection pursuant to subdivision (1) of this subsection.

3. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of this section either:

(a) With prior inspection and approval as provided in subdivision (2) of this subsection; or

(b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to this section or by obtaining a waiver pursuant to subsection 6 of this section. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within fourteen days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails,

upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within fourteen days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subdivisions shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required pursuant to this section for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380.

4. In addition to the fee authorized by subsection 5 of section 307.365, a fee, not to exceed eight dollars and fifty cents for inspections conducted prior to January 1, 1993, and not to exceed ten dollars and fifty cents for inspections conducted thereafter, as determined by each official emissions inspection station located in any city or county described in subsection 1 of this section, may be charged for an automobile emissions and air pollution control inspection in order to attain the national health standards for air quality. Such fee shall be conspicuously posted on the premises of each such inspection station. The official emissions inspection station shall issue a certificate of inspection and an approval sticker or seal certifying the emissions system is functioning properly. The certificate or approval issued shall bear the legend: "This cost is mandated by your United States Congress.". No owner shall be charged an additional fee after having corrected defects or unsafe conditions in the automobile's emissions and air pollution control system if the reinspection is completed within twenty consecutive days, excluding Saturdays, Sundays and holidays, and if such follow-up inspection is made by the station making the initial inspection.

5. The air conservation commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which shall be no greater than seventy-five dollars for model year vehicles prior to 1981 and no greater than two hundred dollars for model year vehicles of 1981 and all subsequent model years.

6. An owner whose vehicle fails upon reinspection to meet the emission standards specified by the Missouri air conservation commission shall be issued a certificate of inspection and an approval sticker or seal by the official emissions inspection station that provided the inspection if the vehicle owner furnishes a complete, signed affidavit satisfying the requirements of this subsection and the cost of emissions repairs and adjustments is equal to or greater than the waiver amount established by the air conservation commission pursuant to this section. The air conservation commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval. The waiver form established pursuant to this subsection shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the inspector that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

7. The department of revenue shall require evidence of the inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.370.

8. Each emissions inspection station located in any city or county described in subsection 1 of this section shall purchase from the highway patrol sufficient forms and stickers or other devices to evidence approval of the motor vehicle's emissions control system. In addition, emissions inspection stations may be required to purchase forms for use in automated analyzers

from outside vendors of the inspection station's choice. The forms must comply with state regulations.

9. In addition to the fee collected by the superintendent pursuant to subsection 5 of section 307.365, the highway patrol shall collect a fee of seventy-five cents for each automobile emissions certificate issued to the applicable official emissions inspection stations, except that no charge shall be made for certificates of inspection issued to official emissions inspection stations operated by governmental entities. All fees collected by the superintendent pursuant to this section shall be deposited in the state treasury to the credit of the "Missouri Air Pollution Control Fund", which is hereby created.

10. The moneys collected and deposited in the Missouri air pollution control fund pursuant to this section shall be allocated on an equal basis to the Missouri state highway patrol and the Missouri department of natural resources, air pollution control program, and shall be expended subject to appropriation by the general assembly for the administration and enforcement of sections 307.350 to 307.390. The unexpended balance in the fund at the end of each appropriation period shall not be transferred to the general revenue fund, except as directed by the general assembly by appropriation, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund at the end of the biennium, shall not apply to this fund. The moneys in the fund shall be invested by the treasurer as provided by law, and the interest shall be credited to the fund.

11. The superintendent of the Missouri state highway patrol shall issue such rules and regulations as are necessary to determine whether a motor vehicle's emissions control system is operating as required by subsection 1 of this section, and the superintendent and the state highways and transportation commission shall use their best efforts to seek federal funds from which reimbursement grants may be made to those official inspection stations which acquire and use the necessary testing equipment which will be required to perform the tests required by the provisions of this section.

12. The provisions of this section shall not apply in any county for any time period during which the air conservation commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, RSMo, for such county.

13. Notwithstanding the provisions of section 307.390, violation of this section shall be deemed a class C misdemeanor.**]**

307.366. MOTOR VEHICLE EMISSIONS TESTED, MANDATED BY CONGRESS, NON-ATTAINMENT AREAS — EXEMPT VEHICLES — CERTIFICATE — MOTOR VEHICLE DEALERS MAY SELL WITH OR WITHOUT INSPECTION, PROCEDURE, PENALTY — FEE — WAIVER — FAILURE TO PASS, RESULT — FUND CREATED, SOURCE, USE AND INVESTMENT OF FUNDS — INSPECTION STATIONS, DUTIES — HIGHWAY PATROL, DUTIES — VIOLATION, PENALTY. — 1. This enactment of the emissions inspection program is a mandate of the United States Congress pursuant to the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. In **[**any city not within a county, any county of the first classification having a population of over nine hundred thousand inhabitants according to the most recent decennial census, any county of the first classification with a charter form of government and a population of not more than two hundred twenty thousand inhabitants and not less than two hundred thousand inhabitants according to the most recent decennial census, any county of the first classification without a charter form of government with a population of not more than one hundred eighty thousand inhabitants and not less than one hundred seventy thousand inhabitants according to the most recent decennial census and any county of the first classification without a charter form of government with a population of not more than eighty-two thousand inhabitants and not less than eighty thousand inhabitants according to the most recent decennial census**] any portion of an area designated by the governor as a nonattainment area, as defined in the federal Clean Air Act, as amended, 42 U.S.C.A. Section 7501, and located within the area described in subsection 1 of section 643.305, RSMo,** certain motor vehicles shall be tested **[**annually**] and**

approved prior to sale or transfer and biennially thereafter to determine that the emissions system is functioning within the emission standards as specified by the Missouri air conservation commission and as required to attain the national health standards for air quality. **For such biennial testing, any such vehicle manufactured as an even-numbered model year vehicle shall be tested and approved in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be tested and approved in each odd-numbered calendar year.** The motor vehicles to be tested shall be all motor vehicles except those specifically exempted pursuant to subdivisions (1) to (3) of subsection 1 of section 307.350 and those exempted pursuant to this section.

2. The provisions of this section shall not apply to:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles;

(3) Model year vehicles prior to 1971;

(4) School buses;

(5) Diesel-powered vehicles;

(6) Motor vehicles registered in the area covered by this section but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of such vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area;

(7) New **and unused** motor vehicles **[**not previously titled or registered prior to the initial motor vehicle registration or the next succeeding registration which is required by law**], of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user**; and

(8) Motor vehicles owned by a person who resides in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census **[**who has chosen to have a biennial motor vehicle registration pursuant to section 301.147, RSMo, and**]** who has completed an emission inspection pursuant to section 643.315, RSMo.

Each official inspection station which conducts **[**safety or**]** emissions inspections **[**in a city or county**] within the area** referred to in subsection 1 of this section shall indicate the gross vehicle weight rating of the motor vehicle on the **[**safety**]** inspection certificate if the vehicle is exempt from the emissions inspection pursuant to subdivision (1) of this subsection.

3. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of this section either:

(a) With prior inspection and approval as provided in subdivision (2) of this subsection; or

(b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to this section or by obtaining a waiver pursuant to subsection 6 of this section. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions

standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this **[**subdivisions**]** **subsection** shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required pursuant to this section for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380.

4. **[**In addition to the fee authorized by subsection 5 of section 307.365,**]** A fee, not to exceed **[**eight dollars and fifty cents for inspections conducted prior to January 1, 1993, and not to exceed ten dollars and fifty cents for inspections conducted thereafter, as determined by each official emissions inspection station located in any city or county described in subsection 1 of this section,**]** **twenty-four dollars** may be charged for an automobile emissions and air pollution control inspection in order to attain the national health standards for air quality. Such fee shall be conspicuously posted on the premises of each such inspection station. The official emissions inspection station shall issue a certificate of inspection and an approval sticker or seal certifying the emissions system is functioning properly. The certificate or approval issued shall bear the legend: "This cost is mandated by your United States Congress.". No owner shall be charged an additional fee after having corrected defects or unsafe conditions in the automobile's emissions and air pollution control system if the reinspection is completed within twenty consecutive days, excluding Saturdays, Sundays and holidays, and if such follow-up inspection is made by the station making the initial inspection.

5. The air conservation commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which shall be no greater than seventy-five dollars for model year vehicles prior to 1981 and no greater than two hundred dollars for model year vehicles of 1981 and all subsequent model years.

6. An owner whose vehicle fails upon reinspection to meet the emission standards specified by the Missouri air conservation commission shall be issued a certificate of inspection and an approval sticker or seal by the official emissions inspection station that provided the inspection if the vehicle owner furnishes a complete, signed affidavit satisfying the requirements of this subsection and the cost of emissions repairs and adjustments is equal to or greater than the waiver amount established by the air conservation commission pursuant to this section. The air conservation commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval. The waiver form established pursuant to this subsection shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the inspector that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

7. The department of revenue shall require evidence of the inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.370.

8. Each emissions inspection station located in **[**any city or county**]** **the area** described in subsection 1 of this section shall purchase from the highway patrol sufficient forms and stickers or other devices to evidence approval of the motor vehicle's emissions control system. In addition, emissions inspection stations may be required to purchase forms for use in automated

analyzers from outside vendors of the inspection station's choice. The forms must comply with state regulations.

9. In addition to the fee collected by the superintendent pursuant to subsection 5 of section 307.365, the highway patrol shall collect a fee of seventy-five cents for each automobile emissions certificate issued to the applicable official emissions inspection stations, except that no charge shall be made for certificates of inspection issued to official emissions inspection stations operated by governmental entities. All fees collected by the superintendent pursuant to this section shall be deposited in the state treasury to the credit of the "Missouri Air Pollution Control Fund", which is hereby created.

10. The moneys collected and deposited in the Missouri air pollution control fund pursuant to this section shall be allocated on an equal basis to the Missouri state highway patrol and the Missouri department of natural resources, air pollution control program, and shall be expended subject to appropriation by the general assembly for the administration and enforcement of sections 307.350 to 307.390. The unexpended balance in the fund at the end of each appropriation period shall not be transferred to the general revenue fund, except as directed by the general assembly by appropriation, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund at the end of the biennium, shall not apply to this fund. The moneys in the fund shall be invested by the treasurer as provided by law, and the interest shall be credited to the fund.

11. The superintendent of the Missouri state highway patrol shall issue such rules and regulations as are necessary to determine whether a motor vehicle's emissions control system is operating as required by subsection 1 of this section, and the superintendent and the state highways and transportation commission shall use their best efforts to seek federal funds from which reimbursement grants may be made to those official inspection stations which acquire and use the necessary testing equipment which will be required to perform the tests required by the provisions of this section.

12. The provisions of this section shall not apply in any county for any time period during which the air conservation commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, RSMo, for such county, except where motor vehicle owners have the option of biennial testing pursuant to chapter 643, RSMo. In counties where such option is available, the emissions inspection may be conducted in stations conducting only an emissions inspection under contract to the state.

13. Notwithstanding the provisions of section 307.390, violation of this section shall be deemed a class C misdemeanor.

643.310. COMMISSION TO ESTABLISH MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM, CERTAIN CITIES AND COUNTIES, EXCEPTIONS — REQUEST ATTORNEY GENERAL TO BRING LAWSUIT — INTERAGENCY AGREEMENT FOR ENFORCEMENT, WHEN — SELECTION OF PERSON TO OPERATE INSPECTION FACILITY OR PROGRAM, PROCEDURE, CONTRACT REQUIREMENT — PROGRAM CRITERIA — SELECTION OF CONTRACTORS, MINORITIES, MOTOR VEHICLE DEALERS — SALE OF ANALYZER TO DEPARTMENT WHEN — REFORMULATED GASOLINE IN NONATTAINMENT AREA. — 1. The commission may, by rule, establish a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 for any portion of a nonattainment area located within the area described in subsection 1 of section 643.305, except for any portion of the nonattainment area which is located in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census, except that the commission may establish a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 in such county only for motor vehicles owned by residents of such county who have chosen to **[**have a biennial motor vehicle registration pursuant to section 301.147, RSMo, if the commission determines that such motor vehicle emissions inspection program is necessary in that area to comply with the requirements of subsection 1 of section 643.305**]**

participate in such a program in lieu of the provisions of section 307.366, RSMo. The commission shall ensure that, for each nonattainment area, the state implementation plan established pursuant to subsection 1 of section 643.305 incorporates and receives all applicable credits allowed by the United States Environmental Protection Agency for emission reduction programs in other nonattainment areas of like designation in other states. The commission shall ensure that emission reduction amounts established pursuant to subsection 2 of section 643.305 shall be consistent with and not exceed the emissions reduction amounts required by the United States Environmental Protection Agency for other nonattainment areas of like designation in other states. No motor vehicle emissions inspection program shall be required to comply with subsection 1 of section 643.305 unless the plan established thereunder takes full advantage of any changes in requirements or any agreements made or entered into by the United States Environmental Protection Agency and any entity or entities on behalf of a nonattainment area concerning compliance with National Ambient Air Quality Standards of the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the regulations promulgated thereunder. The air conservation commission shall request and it shall be the duty of the attorney general to bring, in a court of competent jurisdiction, an action challenging the authority of the United States Environmental Protection Agency to impose sanctions for failure to attain National Ambient Air Quality Standards and failure to provide for required emission reductions under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. The action shall seek to define the required emission reductions and the credits allowed for current and planned emission reductions measures. The air conservation commission shall request and it shall be the duty of the attorney general to bring an action to obtain injunctive relief to enjoin and restrain the imposition of sanctions on the state of Missouri under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., until all actions initiated pursuant to this section have been decided. Provisions of section 307.366, RSMo, to the contrary notwithstanding, the requirements of sections 643.300 to 643.355 shall apply to those areas designated by the commission pursuant to this section in lieu of the provisions of section 307.366, RSMo.

2. No later than the effective date of this section, the department of natural resources and the Missouri highway patrol shall enter into an interagency agreement covering all aspects of the administration and enforcement of section 307.366, RSMo, and sections 643.300 to 643.355.

3. (1) The department, with the cooperation and approval of the commissioner of administration, shall select a person or persons to operate an inspection facility or inspection program pursuant to sections 643.300 to 643.355, under a bid procedure or under a negotiated process or a combination thereof based on criteria and expectations established by the department. This process may use either a licensing arrangement or contractual arrangement with the selected party or parties. The selection of persons to operate inspection facilities or inspection programs shall be exempt from the provisions of all site procurement laws. The number of locations shall be no less than the number needed to provide adequate service to customers and establish an emissions inspection program which satisfies the requirements of this section. Each person who is authorized to operate a station pursuant to this section shall be capable of providing adequate and cost-effective service to customers.

(2) Service management, coordination and data processing may be provided by the department or by another person, including a contractor or licensee, based upon the most cost-effective proposal for service.

(3) A license or contract shall be for a period of up to seven years, consistent with the provisions of article IV, section 28 of the Missouri Constitution, and licenses or contracts shall be annually reviewed. A license or contract may be suspended or revoked if the licensee or contractor is not meeting the conditions of sections 643.300 to 643.355, all applicable rules, the license agreement or contract as determined by the department. A licensee or contractor found to have violated sections 643.300 to 643.355, applicable rules or the conditions of the license agreement or contract shall be in violation of section 643.151 and subject to the penalties provided thereunder.

4. The inspection program shall satisfy the following criteria:

(1) There shall be an adequate number of stations to ensure that no more than twenty percent of all persons residing in an affected nonattainment area reside farther than five miles from the nearest inspection station, and consideration shall be given to employment, locations and commuting patterns when selecting the locations of the stations;

(2) There shall be an adequate number of inspection lanes at each facility so that no more than five percent of all persons having an inspection are required to wait more than fifteen minutes before the inspection begins;

(3) The days and daily hours of operation shall include at least those hours specified by the department, which shall include, at a minimum, twelve continuous hours of operation on all weekdays excepting federal holidays, and six continuous hours of operation on all Saturdays excepting federal holidays;

(4) The emissions inspection program shall include a simulated on-road emissions inspection component, including pressure and purge tests, which satisfies the requirements established by regulation of the United States Environmental Protection Agency and may include a visual inspection component;

(5) The inspection stations shall be test-only stations and shall not offer motor vehicle emissions repairs, parts or services of any kind;

(6) No person operating or employed by an emissions inspection station shall repair or maintain motor vehicle emission systems or pollution control devices for compensation of any kind.

5. The commission, the department of economic development and the office of administration shall, in cooperation with the minority business advocacy commission, select the contractor or contractors to provide an inspection program which satisfies the minimum requirements of this section in accordance with the requirements of section 33.752, RSMo, and chapter 34, RSMo. The commission, the office of administration and the department of economic development, in cooperation with the minority business advocacy commission shall ensure adequate minority business participation in the selection of the contractor or contractors to provide an inspection program pursuant to this section. The commission, the office of administration and the department of economic development shall ensure adequate participation of Missouri businesses in the selection of the contractor or contractors to provide an inspection program pursuant to this section.

6. With approval of the commission and pursuant to rules adopted by the commission, an organization whose members are motor vehicle dealers or leasing companies may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned and held for sale or lease by the members of the organization. With approval of the commission and pursuant to rules adopted by the commission, any person operating a fleet of five hundred or more motor vehicles may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned or leased and operated by the person establishing the facility. The inspections performed in facilities established pursuant to this subsection shall be performed by a contractor selected by the commission pursuant to this section and the contractor performing such inspections shall be responsible solely to the department and shall satisfy all applicable requirements of sections 643.300 to 643.355.

7. Any person who owns Missouri analyzer system emission inspection equipment as defined by rule, used to provide emissions inspections pursuant to section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established pursuant to sections 643.300 to 643.355 may, within twelve months of the implementation of an emissions inspection program pursuant to sections 643.300 to 643.355, sell such equipment, to the department of natural resources at current market value as established by an independent appraisal provided that the equipment is fully functional and has been maintained according to all applicable manufacturer's specifications and procedures. The department shall purchase such

equipment using funds appropriated for that purpose from the Missouri air emission reduction fund. Any person who, prior to January 1, 1992, contracted to lease or lease purchase, or purchased by borrowing a portion of the funds secured by a chattel mortgage, Missouri analyzer system emission inspection equipment used to provide emissions inspections pursuant to section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established pursuant to sections 643.300 to 643.355, and has made all payments required under the contract, may, within twelve months of the implementation of an emissions inspection program pursuant to sections 643.300 to 643.355, request the department of natural resources to take possession of such equipment and assume all payment obligations owed on such equipment which obligations are not in excess of one hundred and twenty-five percent of the current market value as established by an independent appraisal, provided that the equipment is fully functional and has been maintained according to all applicable manufacturer's specifications and procedures. The department shall take possession of such equipment and pay such obligations using funds appropriated for that purpose from the Missouri air emission reduction fund.

8. If the governor applies to the administrator of the Environmental Protection Agency to require federal reformulated gasoline in nonattainment areas, nothing in sections 643.300 to 643.355 shall prevent the storage of conventional gasoline in nonattainment areas which is intended for sale to agricultural, commercial or retail customers outside said nonattainment areas subject to reformulated gasoline.

9. The governor, the department of natural resources, and the commission shall work to ensure an orderly transition period in the nonattainment area for the introduction of reformulated gasoline. Priority shall be given to ensure the petroleum refiners ample time to organize, structure, and implement both the production and the delivery of reformulated gasoline to the nonattainment area, so that consumers will see an orderly, seamless market substitution.

643.315. MOTOR VEHICLES SUBJECT TO PROGRAM, WHEN, EXCEPTIONS — RECIPROCITY WITH OTHER STATES — DEALER INSPECTION, RETURN OF MOTOR VEHICLE FOR FAILING INSPECTION, OPTIONS, VIOLATION. — 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which are domiciled, registered or primarily operated in an area for which the commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, which may include all motor vehicles owned by residents of a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census who have chosen to **[**have a biennial motor vehicle registration pursuant to section 301.147**] participate in such a program in lieu of the provisions of section 307.366**, RSMo, shall be inspected and approved prior to sale or transfer. In addition, any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each odd-numbered calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid emissions inspection certificate shall be presented at the time of registration or registration renewal of such motor vehicle.

2. No emission standard established by the commission for a given make and model year shall exceed the lesser of the following:

(1) The emission standard for that vehicle model year as established by the United States Environmental Protection Agency; or

(2) The emission standard for that vehicle make and model year as established by the vehicle manufacturer.

3. The inspection requirement of subsection 1 of this section shall apply to all motor vehicles except:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles if such vehicles are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(3) Model year vehicles prior to 1971;

(4) Vehicles which are powered exclusively by electric or hydrogen power or by fuels other than gasoline which are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(5) Motor vehicles registered in an area subject to the inspection requirements of sections 643.300 to 643.355 which are domiciled and operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, but only if the owner of such vehicle presents to the department an affidavit that the vehicle will be operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355 for the next twenty-four months, and the owner applies for and receives a waiver which shall be presented at the time of registration or registration renewal;

(6) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user; and

(7) Historic motor vehicles registered pursuant to section 301.131, RSMo.

4. The commission may, by rule, allow inspection reciprocity with other states having equivalent or more stringent testing and waiver requirements than those established pursuant to sections 643.300 to 643.355.

5. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of sections 643.300 to 643.355 either:

(a) With prior inspection and approval as provided in subdivision (2) of this subsection; or

(b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to sections 643.300 to 643.355 or by obtaining a waiver pursuant to section 643.335. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be

required pursuant to sections 643.300 to 643.360 for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380, RSMo.

Approved June 19, 2003

SB 55 [SS#2 SCS SB 55]

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

Renames Missouri Southern State College as Missouri Southern State University-Joplin.

AN ACT to repeal sections 173.005, 174.020, 174.231, 174.241, 174.324, and 174.450, RSMo, and to enact in lieu thereof six new sections relating to state institutions of higher education.

SECTION

A. Enacting clause.
173.005. Department of higher education created — agencies, divisions, transferred to department — coordinating board, appointment qualifications, terms, compensation, duties, advisory committee, members.
174.020. Names of state colleges.
174.231. Missouri Southern State University, mission statement — discontinuance of associate degree program.
174.241. Boards of regents, Missouri Western College — appointment, terms, qualifications.
174.324. Master's degrees in accounting authorized for Missouri Western College and Missouri Southern State University-Joplin, requirements — limitations on new master's degree programs.
174.450. Board of governors to be appointed for certain public institutions of higher education, qualifications — board of regents abolished, when.

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

SECTION A. ENACTING CLAUSE. — Sections 173.005, 174.020, 174.231, 174.241, 174.324, and 174.450, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 173.005, 174.020, 174.231, 174.241, 174.324, and 174.450, to read as follows:

173.005. DEPARTMENT OF HIGHER EDUCATION CREATED — AGENCIES, DIVISIONS, TRANSFERRED TO DEPARTMENT — COORDINATING BOARD, APPOINTMENT QUALIFICATIONS, TERMS, COMPENSATION, DUTIES, ADVISORY COMMITTEE, MEMBERS. — 1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by the Reorganization Act of 1974, Appendix B, RSMo.

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during his term. The other qualifications, terms and compensation of the coordinating board shall be the same as provided by law for the curators of the University of Missouri. The coordinating board may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and research personnel as may be necessary to assist it in performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time

equivalent employees regardless of the source of funding. In addition to all other powers, duties and functions transferred to it, the coordinating board for higher education shall have the following duties and responsibilities:

(1) The coordinating board for higher education shall have approval of proposed new degree programs to be offered by the state institutions of higher education;

(2) The coordinating board for higher education may promote and encourage the development of cooperative agreements between Missouri public four-year institutions of higher education which do not offer graduate degrees and Missouri public four-year institutions of higher education which do offer graduate degrees for the purpose of offering graduate degree programs on campuses of those public four-year institutions of higher education which do not otherwise offer graduate degrees. Such agreements shall identify the obligations and duties of the parties, including assignment of administrative responsibility. Any diploma awarded for graduate degrees under such a cooperative agreement shall include the names of both institutions inscribed thereon. Any cooperative agreement in place as of August 28, 2003, shall require no further approval from the coordinating board for higher education. Any costs incurred with respect to the administrative provisions of this subdivision may be paid from state funds allocated to the institution assigned the administrative authority for the program. The provisions of this subdivision shall not be construed to invalidate the provisions of subdivision (1) of this subsection;

[(2)**]** **(3)** In consultation with the heads of the institutions of higher education affected and against a background of carefully collected data on enrollment, physical facilities, manpower needs, institutional missions, the coordinating board for higher education shall establish guidelines for appropriation requests by those institutions of higher education; however, other provisions of the Reorganization Act of 1974 notwithstanding, all funds shall be appropriated by the general assembly to the governing board of each public four-year institution of higher education which shall prepare expenditure budgets for the institution;

[(3)**]** **(4)** No new state-supported senior colleges or residence centers shall be established except as provided by law and with approval of the coordinating board for higher education;

[(4)**]** **(5)** The coordinating board for higher education shall establish admission guidelines consistent with institutional missions;

[(5)**]** **(6)** The coordinating board shall establish policies and procedures for institutional decisions relating to the residence status of students;

[(6)**]** **(7)** The coordinating board shall establish guidelines to promote and facilitate the transfer of students between institutions of higher education within the state;

[(7)**]** **(8)** The coordinating board shall collect the necessary information and develop comparable data for all institutions of higher education in the state. The coordinating board shall use this information to delineate the areas of competence of each of these institutions and for any other purposes deemed appropriate by the coordinating board;

[(8)**]** **(9)** Compliance with requests from the coordinating board for institutional information and the other powers, duties and responsibilities, herein assigned to the coordinating board, shall be a prerequisite to the receipt of any funds for which the coordinating board is responsible for administering; and

[(9)**]** **(10)** If any institution of higher education in this state, public or private, willfully fails or refuses to follow any lawful guideline, policy or procedure established or prescribed by the coordinating board, or knowingly deviates from any such guideline, or knowingly acts without coordinating board approval where such approval is required, or willfully fails to comply with any other lawful order of the coordinating board, the coordinating board may, after a public hearing, withhold or direct to be withheld from that institution any funds the disbursement of which is subject to the control of the coordinating board, or may remove the approval of the institution as an "approved institution" within the meaning of section 173.205, but nothing in this section shall prevent any institution of higher education in this state from presenting additional

budget requests or from explaining or further clarifying its budget requests to the governor or the general assembly.

3. The coordinating board shall meet at least four times annually with an advisory committee who shall be notified in advance of such meetings. The coordinating board shall have exclusive voting privileges. The advisory committee shall consist of thirty-two members, who shall be the president or other chief administrative officer of the University of Missouri; the chancellor of each campus of the University of Missouri; the president of each state-supported four-year college or university, including Harris-Stowe State College, Missouri Southern State **[**College**]** **University-Joplin**, Missouri Western State College, and Lincoln University; the president of Linn State Technical College; the president or chancellor of each public community college district; and representatives of each of five accredited private institutions selected biennially, under the supervision of the coordinating board, by the presidents of all of the state's privately supported institutions; but always to include at least one representative from one privately supported junior college, one privately supported four-year college, and one privately supported university. The conferences shall enable the committee to advise the coordinating board of the views of the institutions on matters within the purview of the coordinating board.

4. The University of Missouri, Lincoln University, and all other state-governed colleges and universities, chapters 172, 174 and 175, RSMo, and others, are transferred by type III transfers to the department of higher education subject to the provisions of subsection 2 of this section.

5. The state historical society, chapter 183, RSMo, is transferred by type III transfer to the University of Missouri.

6. The state anatomical board, chapter 194, RSMo, is transferred by type II transfer to the department of higher education.

7. All the powers, duties and functions vested in the division of public schools and state board of education relating to community college state aid and the supervision, formation of districts and all matters otherwise related to the state's relations with community college districts and matters pertaining to community colleges in public school districts, chapters 163 and 178, RSMo, and others, are transferred to the coordinating board for higher education by type I transfer. Provided, however, that all responsibility for administering the federal-state programs of vocational-technical education, except for the 1202a post-secondary educational amendments of 1972 program, shall remain with the department of elementary and secondary education. The department of elementary and secondary education and the coordinating board for higher education shall cooperate in developing the various plans for vocational-technical education; however, the ultimate responsibility will remain with the state board of education.

8. The administration of sections 163.171 and 163.181, RSMo, relating to teacher-training schools in cities, is transferred by type I transfer to the coordinating board for higher education.

9. All the powers, duties, functions, personnel and property of the state library and state library commission, chapter 181, RSMo, and others, are transferred by type I transfer to the coordinating board for higher education, and the state library commission is abolished. The coordinating board shall appoint a state librarian who shall administer the affairs of the state library under the supervision of the board.

10. All the powers, duties, functions, and properties of the state poultry experiment station, chapter 262, RSMo, are transferred by type I transfer to the University of Missouri, and the state poultry association and state poultry board are abolished. In the event the University of Missouri shall cease to use the real estate of the poultry experiment station for the purposes of research or shall declare the same surplus, all real estate shall revert to the governor of the state of Missouri and shall not be disposed of without legislative approval.

174.020. NAMES OF STATE COLLEGES. — 1. State institutions of higher education governed by sections 174.020 to **[**174.320**]** **174.500** shall be named and known as follows: the institution at Warrensburg, Johnson County, shall hereafter be known as the "Central Missouri State University"; the institution at Cape Girardeau, Cape Girardeau County, shall hereafter be

known as the "Southeast Missouri State University"; the institution at Springfield, Greene County, shall hereafter be known as the "Southwest Missouri State University"; the institution at Maryville, Nodaway County, shall hereafter be known as the "Northwest Missouri State University"; the college at St. Joseph, Buchanan County, shall hereafter be known as the "Missouri Western State College"; the **[**college**]** **institution** at Joplin, Jasper County, shall hereafter be known as the "Missouri Southern State **[**College**]** **University-Joplin**"; and the college in the city of St. Louis shall be known as "Harris-Stowe State College".

2. References in the statutes in this state to such institutions whether denominated colleges or universities in such statutes **or whether said institutions are renamed in subsection 1 of this section** shall continue to apply to the applicable institution.

3. Any costs incurred with respect to modifications of the names of the state colleges and universities specified in subsection 1 of this section shall not be paid from state funds.

[3.**]** **4.** When the conditions set forth in section 178.631, RSMo, are met, the technical college located in Osage County, commonly known as the East Campus of Linn Technical College, shall be known as "Linn State Technical College".

174.231. MISSOURI SOUTHERN STATE UNIVERSITY, MISSION STATEMENT — DISCONTINUANCE OF ASSOCIATE DEGREE PROGRAM. — 1. After August 28, 2003, the institution formerly known as Missouri Southern State College located in Joplin, Jasper County, shall be known as "Missouri Southern State University-Joplin". Missouri Southern State University-Joplin is hereby designated and shall hereafter be operated as a statewide institution of international or global education. The Missouri Southern State **[**College located in Joplin, Jasper County,**]** **University-Joplin** is hereby designated a moderately selective institution which shall provide associate **[**and**]** **degree programs except as provided in subsection 2 of this section,** baccalaureate degree programs **[**which meet the needs of the citizens, businesses, and industries of its service area as defined in section 174.010, as well as counties contiguous to Jasper County**]**, **and graduate degree programs pursuant to subdivisions (1) and (2) of subsection 2 of section 173.005, RSMo**. The institution shall develop such academic support programs and public service activities it deems necessary and appropriate to establish international or global education as a distinctive theme of its mission. Consistent with the provisions of section 174.324, Missouri Southern State **[**College**]** **University-Joplin** is authorized to offer master's level degree programs in accountancy, subject to the approval of the coordinating board for higher education as provided in subdivision (1) of subsection 2 of section 173.005, RSMo.

2. As of July 1, 2008, Missouri Southern State University-Joplin shall discontinue any and all associate degree programs unless the continuation of such associate degree programs is approved by the coordinating board for higher education pursuant to subdivision (1) of subsection 2 of section 173.005, RSMo.

174.241. BOARDS OF REGENTS, MISSOURI WESTERN COLLEGE — APPOINTMENT, TERMS, QUALIFICATIONS. — 1. The board of regents of Missouri Western State College **[**and the board of regents for Missouri Southern State College**]** shall consist of six members **[**each**]**, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall be responsible for the administration of **[**its**]** **the** college. All persons appointed to **[**either**]** **the** board of regents shall be citizens of the United States and shall have been residents of the state of Missouri for two successive years next preceding the date of their appointment, shall be residents of the district in which the college is located, and not more than three members of **[**either**]** **the** board of regents shall belong to the same political party.

2. The term of service of the members of **[**both boards**]** **the board** of regents shall be six years, the term of one member expiring each year, except that of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, and one for a term of six years.

The governor shall first appoint members to **[**each**]** **the** board of regents prior to October 13, 1975.

174.324. MASTER'S DEGREES IN ACCOUNTING AUTHORIZED FOR MISSOURI WESTERN COLLEGE AND MISSOURI SOUTHERN STATE UNIVERSITY-JOPLIN, REQUIREMENTS — LIMITATIONS ON NEW MASTER'S DEGREE PROGRAMS. — **1.** Notwithstanding any law to the contrary, Missouri Western State College and Missouri Southern State **[**College**]** **University-Joplin** may offer master's degrees in accounting, subject to any terms and conditions of the Missouri state board of accountancy applicable to any other institution of higher education in this state which offers such degrees, and subject to approval of the coordinating board for higher education.

2. Any new masters degree program offered at Missouri Southern State University-Joplin or any other public institution of higher education in this state must be approved by the coordinating board for higher education pursuant to the provisions of subdivision (1) or (2) of subsection 2 of section 173.005, RSMo.

174.450. BOARD OF GOVERNORS TO BE APPOINTED FOR CERTAIN PUBLIC INSTITUTIONS OF HIGHER EDUCATION, QUALIFICATIONS — BOARD OF REGENTS ABOLISHED, WHEN. — The governing board of Central Missouri State University, Southwest Missouri State University**, Missouri Southern State University-Joplin,** and of each other public institution of higher education which, through the procedures established in subdivision (7) or (8) of section 173.030, RSMo, is charged with a statewide mission shall be a board of governors consisting of eight members, composed of seven voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party. The appointed members of the board of regents serving on the date of the statutory mission change shall become members of the board of governors on the effective date of the statutory mission change and serve until the expiration of the terms for which they were appointed. The board of regents of any such institution shall be abolished on the effective date of the statutory mission change, as prescribed in subdivision (7) or (8) of section 173.030, RSMo.

Approved July 11, 2003

SB 61 [HCS SCS SB 61]

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 private use of an individual's Social Security Number in certain situations.

AN ACT to repeal section 59.480, RSMo, and to enact in lieu thereof two new sections relating to restrictions on use of personal identifying information, with an effective date.

SECTION

A. Enacting clause.
59.480. Recording of discharges from armed forces — definitions — duties of recorders — disclosure of records, when.
407.1355. Social Security numbers, prohibited actions involving.

B. Effective date.

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

SECTION A. ENACTING CLAUSE. — Section 59.480, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 59.480 and 407.1355, to read as follows:

59.480. RECORDING OF DISCHARGES FROM ARMED FORCES — DEFINITIONS — DUTIES OF RECORDERS — DISCLOSURE OF RECORDS, WHEN. — **[**Any person who is the holder of a discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record from the armed forces of the United States may demand that such document be recorded by the recorder of deeds of any county in this state, including the recorder of deeds of the city of St. Louis, and it shall be the duty of the recorder of deeds to record the document without any fee or compensation therefor.**] 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:**

(1) "Authorized party", any of the following:

(a) The person who is the subject of the document;

(b) The representative of a person who is the subject of the document or the agent of a person who is the subject of the document, including but not limited to, relatives, attorneys, attorneys in fact, conservators, guardians, and funeral directors; and who has authorization in writing from the person who is the subject of the document, the spouse of the person who is the subject of the document, a relative who is the next of kin of the person who is the subject of the document, a court, in order to represent the person who is the subject of the document or the executor of the person who was the subject of the document who is acting on behalf of the deceased subject of the document;

(c) Government agencies, including courts, that have an interest in assisting the subject of the document or in assisting the beneficiaries of the deceased subject of the document in obtaining a benefit;

(2) "Military discharge document", a discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record from the armed forces of the United States, or any document that purports to represent a notice of separation from or service in any armed forces of the United States or any state, including but not limited to the department of defense form DD 214;

(3) "Recorder of deeds", the recorder of deeds in those counties where separate and the circuit clerk and ex officio recorder of deeds in those counties where the offices are combined.

2. Military discharge documents shall be accepted for filing by the recorder of deeds in all counties and the city of St. Louis in this state without any fee or compensation therefore.

3. The recorder of deeds may refuse to accept any military discharge document that:

(1) Is not an original or does not contain an original signature of an officer of the armed forces of the United States or a federal or state agency;

(2) Is not a certified copy from an agency of the federal or state government; or

(3) Appears to have alterations or erasures.

4. On or after the effective date of this section, the recorder of deeds shall:

(1) Maintain and make available to the public in its office an index containing only the name of the subject of a military discharge document;

(2) Maintain a separate index from publicly available information that contains only:

(a) The name of the subject of a military discharge document; and

(b) The location of the image of the military discharge document;

(3) Maintain the images of all military discharge documents separately from all other publicly available filed or recorded document images.

5. As part of any remote access system, the recorder of deeds shall not make available the location of the image or the image of the military discharge document.

6. Images of a military discharge document or copies thereof shall only be made available to an authorized party by submitting a notarized request form to the recorder of deeds. The recorder of deeds shall not receive a fee or compensation for a certified or uncertified copy of the military discharge document and shall not charge a notary fee for notarizing such request form.

7. Prior to the effective date of this section, the Recorders Association of Missouri shall adopt a request form and any rules necessary to implement the provisions of this section. The recorder of deeds in all counties and the city of St. Louis shall use and furnish the forms adopted by the Recorders Association of Missouri and comply with the rules adopted by the Recorders Association of Missouri.

8. A request form that contains more than one military discharge document shall not be accepted by the recorder of deeds.

9. The recorder of deeds shall keep all completed request forms for a period of at least five years and such forms shall be made available only to an authorized party in accordance with the provisions of this section.

10. In the event that military discharge documents, prior to the effective date of this section, have been commingled, and to the extent possible, a recorder of deeds may choose to enact the provisions of this section regarding the indexes and images.

11. On or after the effective date of this section, military discharge documents kept pursuant to this section shall not be reproduced or used in whole or in part for any commercial or speculative purposes.

12. Any individual, agency, or court which obtains information pursuant to this section shall not disseminate or disclose such information or any part thereof except as authorized in this section or otherwise by law.

13. The recorder of deeds shall not be liable for any damages that may result from good faith compliance with the provisions of this section.

407.1355. SOCIAL SECURITY NUMBERS, PROHIBITED ACTIONS INVOLVING. — 1. A person or entity, not including a state or local agency, shall not do any of the following:

(1) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" is defined in this section to intentionally communicate or otherwise make available to the general public;

(2) Require an individual to transmit his or her social security number over the Internet, unless the connection is secure or the social security number is encrypted;

(3) Require an individual to use his or her social security number to access an Internet web site, unless a password, unique personal identification number, or other authentication device is also required to access the Internet website.

2. Except as provided in subsection 3 of this section, the provisions of subsection 1 of this section apply only to the use of social security numbers on or after July 1, 2006.

3. Except as provided in subsection 6 of this section, a person or entity, not including a state or local agency, that has used, prior to July 1, 2006, an individual's social security number in a manner inconsistent with subsection 1 of this section, may continue using that individual's social security number in that manner on or after July 1, 2006, if any of the following conditions are met:

(1) The use of the social security number is continuous. If the use is stopped for any reason, subsection 1 of this section shall apply;

(2) The individual is provided an annual disclosure, beginning in 2006, that informs the individual that he or she has the right to stop the use of his or her social security number in a manner prohibited by subsection 1 of this section; or

(3) A written request by an individual to stop the use of his or her social security number in a manner prohibited by subsection 1 of this section shall be implemented within thirty days of the receipt of the request. There shall be no fee or charge for implementing the request.

A person or entity, not including a state or local agency, shall not deny services to an individual because the individual makes a written request pursuant to this subdivision.

4. This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

5. This section does not apply to documents that are recorded or required to be open to the public pursuant to chapter 610, RSMo. This section does not apply to records that are required by statute, case law, or Missouri court rules, to be made available to the public.

6. If a federal law takes effect requiring the United States Department of Health and Human Services to establish a national unique patient health identifier program, any person or entity that complies with the federal law shall be deemed in compliance with this section.

SECTION B. EFFECTIVE DATE. — Section A of this act shall become effective January 1, 2005.

Approved June 27, 2003

SB 63 [SB 63]

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

Rulings on termination of parental rights shall be final for purposes of appeal.

AN ACT to repeal section 211.477, RSMo, relating to parental rights, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

211.477. Order of termination, when issued — transfer of legal custody, to whom — alternatives to termination — power of court — granting or denial of petition deemed final judgment.

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

SECTION A. ENACTING CLAUSE. — Section 211.477, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.477, to read as follows:

211.477. ORDER OF TERMINATION, WHEN ISSUED — TRANSFER OF LEGAL CUSTODY, TO WHOM — ALTERNATIVES TO TERMINATION — POWER OF COURT — GRANTING OR DENIAL OF PETITION DEEMED FINAL JUDGMENT. — 1. If, after the dispositional hearing, the court finds that one or more of the grounds set out in section 211.447 exists or that the parent has consented to the termination pursuant to section 211.444 and that it is in the best interests of the

child, the court may terminate the rights of the parent in and to the child. After ordering termination and after consideration of the social study and report, the court shall transfer legal custody to:

(1) The division of family services;

(2) A private child-placing agency;

(3) A foster parent, relative or other person participating in the proceedings pursuant to section 211.464; or

(4) Any other person or agency the court deems suitable to care for the child.

2. If only one parent consents or if the conditions specified in section 211.447 are found to exist as to only one parent, the rights of only that parent with reference to the child may be terminated and the rights of the other parent shall not be affected.

3. The court may order termination whether or not the child is in adoptive placement or an adoptive placement is available for the child.

4. If, after the dispositional hearing, the court finds that one or more of the grounds set out in section 211.447 exists, but that termination is not in the best interests of the child because the court finds that the child would benefit from the continued parent-child relationship or because the child is fourteen or more years of age and objects to the termination, the court may:

(1) Dismiss the petition and order that the child be returned to the custody of the parent;

(2) Retain jurisdiction of the case and order that the child be placed in the legal custody of the parent, the division, a private child-caring or placing agency, a foster parent, relative or other suitable person who is able to provide long-term care for the child. Any order of the court under this subdivision shall designate the period of time it shall remain in effect, with mandatory review by the court no later than six months thereafter. The court shall also specify what residual rights and responsibilities remain with the parent. Any individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court; or

(3) Appoint a guardian under the provisions of chapter 475, RSMo.

5. Orders of the court issued pursuant to sections 211.442 to 211.487 shall recite the jurisdictional facts, factual findings on the existence of grounds for termination and that the best interests of the child are served by the disposition stated in the order.

6. The granting or denial of a petition for termination of parental rights shall be deemed a final judgment for purposes of appeal.

Approved June 27, 2003

SB 68 [HCS SB 68]

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

Modifies provision regarding refunds of ambulance and fire protection district sales tax.

AN ACT to repeal sections 190.100 and 321.552, RSMo, and to enact in lieu thereof two new sections relating to sales tax for ambulance and fire protection districts.

SECTION

A. Enacting clause.

190.100. Definitions.

321.552. Sales tax authorized in certain counties (all except Greene, Platte, Clay, St. Louis, and St. Charles counties) for ambulance and fire protection — ballot language — special trust fund established — refunds authorized.

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

SECTION A. ENACTING CLAUSE. — Sections 190.100 and 321.552, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 190.100 and 321.552, to read as follows:

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;

(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;

(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;

(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;

(21) "Health care facility", a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed;

(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;

(23) "Medical control", supervision provided by or under the direction of physicians to providers by written or verbal communications;

(24) "Medical direction", medical guidance and supervision provided by a physician to an emergency services provider or emergency medical services system;

(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;

(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;

(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;

(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;

(29) "Physician", a person licensed as a physician pursuant to chapter 334, RSMo;

(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;

(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;

(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;

(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;

(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;

(37) "State advisory council on emergency medical services", a committee formed to advise the department on policy affecting emergency medical service throughout the state;

(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;

(39) "Trauma", an injury to human tissues and organs resulting from the transfer of energy from the environment;

(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;

(41) "Trauma center", a hospital that is currently designated as such by the department.

321.552. SALES TAX AUTHORIZED IN CERTAIN COUNTIES (ALL EXCEPT GREENE, PLATTE, CLAY, ST. LOUIS, AND ST. CHARLES 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.

Approved July 1, 2003

SB 101 [HCS SB 101]

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

Allows Cass County to establish a municipal court system to prosecute ordinance violations.

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to violations of county ordinances.

SECTION
A. Enacting clause.
67.2010. Certain counties may have associate circuit judges decide county ordinance violations (Cass County).

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

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.2010, to read as follows:

67.2010. CERTAIN COUNTIES MAY HAVE ASSOCIATE CIRCUIT JUDGES DECIDE COUNTY ORDINANCE VIOLATIONS (CASS COUNTY). — 1. Any county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may elect to have the violations of county ordinances adopted pursuant to section 304.130, RSMo, heard and determined by an associate circuit judge of the circuit

in which the county is located; provided, however, if such election is made, all violations of that county's ordinances adopted pursuant to section 304.130, RSMo, shall be heard and determined before an associate circuit judge or judges. Nothing in this subsection shall preclude the transfer or assignment of another judge to hear and determine a case or class of cases when otherwise authorized by provisions of the constitution, law, or court rule.

2. If a county elects to have the violations of its county ordinances adopted pursuant to section 304.130, RSMo, heard and determined by an associate circuit judge, the associate circuit judge or judges shall commence hearing and determining such violations six months after the county notifies the presiding judge of the circuit of its election. With the consent of the presiding judge, the associate circuit judge or judges may commence hearing such violations at an earlier date.

Approved July 11, 2003

SB 108 [SB 108]

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

Adds the Chief Information Officer to the State Records Commission.

AN ACT to repeal section 109.250, RSMo, and to enact in lieu thereof one new section relating to the state records commission.

SECTION
A. Enacting clause.
109.250. State records commission established — members — duties — meetings.

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

SECTION A. ENACTING CLAUSE. — Section 109.250, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 109.250, to read as follows:

109.250. STATE RECORDS COMMISSION ESTABLISHED — MEMBERS — DUTIES — MEETINGS. — 1. There is hereby created the "State Records Commission". It shall consist of the following members: The secretary of state, or his authorized representative, who shall act as chairman; the attorney general, or his authorized representative; the state auditor, or his authorized representative; the director of the forms management unit appointed pursuant to section 37.320, RSMo; a member of the house of representatives appointed by the speaker of the house; a member of the senate appointed by the president pro tem of the senate; **[**and**]** the director of the state historical society**; and the chief information officer**. The director of the records management and archives service will serve as secretary to the commission. While serving as secretary to the commission, he shall have no vote on matters considered by the commission.

2. It shall be the duty of the commission to determine what records no longer have any administrative, legal, research, or historical value and should be destroyed or disposed of otherwise. The commission will prescribe the procedures for compiling and submitting to the commission lists and schedules of records proposed for disposal and the procedures for the physical destruction or other disposition of records. Procedures prescribed by the commission

will be promulgated by the director of the records management and archives service, only upon written approval of the commission.

3. The commission shall meet whenever called by the chairman.

Approved May 30, 2003

SB 120 [SB 120]

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

Allows Cass County to use a small portion of its property tax revenue for collection costs.

AN ACT to repeal section 137.082, RSMo, relating to assessment of newly constructed property, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.

137.082. New construction, assessment of upon occupancy, how — payment of taxes, when — county assessor, duties — county option — natural disasters, assessment reduction allowed, effect.

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

SECTION A. ENACTING CLAUSE. — Section 137.082, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.082, to read as follows:

137.082. NEW CONSTRUCTION, ASSESSMENT OF UPON OCCUPANCY, HOW — PAYMENT OF TAXES, WHEN — COUNTY ASSESSOR, DUTIES — COUNTY OPTION — NATURAL DISASTERS, ASSESSMENT REDUCTION ALLOWED, EFFECT. — 1. Notwithstanding the provisions of sections 137.075 and 137.080, to the contrary, a building or other structure classified as residential property pursuant to section 137.016, newly constructed and occupied on any parcel of real property shall be assessed and taxed on such assessed valuation as of the first day of the month following the date of occupancy for the proportionate part of the remaining year at the tax rates established for that year, in all taxing jurisdictions located in the county adopting this section as provided in subsection 8 of this section. Newly constructed residential property which has never been occupied shall not be assessed as improved real property until such occupancy or the first day of January of the second year following the year in which construction of the improvements was completed.

2. The assessor may consider a property residentially occupied upon personal verification or when any two of the following conditions have been met:

(1) An occupancy permit has been issued for the property;

(2) A deed transferring ownership from one party to another has been filed with the recorder of deeds' office subsequent to the date of the first permanent utility service;

(3) A utility company providing service in the county has verified a transfer of service for property from one party to another;

(4) The person or persons occupying the newly constructed property has registered a change of address with any local, state or federal governmental office or agency.

3. In implementing the provisions of this section, the assessor may use occupancy permits, building permits, warranty deeds, utility connection documents, including telephone connections, or other official documents as may be necessary to discover the existence of newly constructed

properties. No utility company shall refuse to provide verification monthly to the assessor of a utility connection to a newly occupied single family building or structure.

4. In the event that the assessment under subsections 1 and 2 of this section is not completed until after the deadline for filing appeals in a given tax year, the owner of the newly constructed property who is aggrieved by the assessment of the property may appeal this assessment the following year to the county board of equalization in accordance with chapter 138, RSMo, and may pay any taxes under protest in accordance with section 139.031, RSMo. The collector shall impound such protested taxes and shall not disburse such taxes until resolution of the appeal.

5. The increase in assessed valuation resulting from the implementation of the provisions of this section shall be considered new construction and improvements under the provisions of this chapter.

6. In counties which adopt the provisions of subsections 1 to 7 of this section, an amount not to exceed ten percent of all ad valorem property tax collections on newly constructed and occupied residential property allocable to each taxing authority within counties of the first classification having a population of nine hundred thousand or more, one-tenth of one percent of all ad valorem property tax collections allocable to each taxing authority within all other counties of the first classification and one-fifth of one percent of all ad valorem property tax collections allocable to each taxing authority within counties of the second, third and fourth classifications **and any county of the first classification having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants**, in addition to the amount prescribed by section 137.720 shall be deposited into the assessment fund of the county for collection costs.

7. For purposes of figuring the tax due on such newly constructed residential property, the assessor or the board of equalization shall place the full amount of the assessed valuation on the tax book upon the first day of the month following occupancy. Such assessed valuation shall be taxed for each month of the year following such date at its new assessed valuation, and for each month of the year preceding such date at its previous valuation. The percentage derived from dividing the number of months at which the property is taxed at its new valuation by twelve shall be applied to the total assessed valuation of the new construction and improvements, and such product shall be included in the next year's base for the purposes of figuring the next year's tax levy rollback. The untaxed percentage shall be considered as new construction and improvements in the following year and shall be exempt from the rollback provisions.

8. Subsections 1 to 7 of this section shall be effective in those counties including any city not within a county in which the governing body of such county elects to adopt a proposal to implement the provisions of subsections 1 to 7 of this section. Such subsections shall become effective in such county on the first day of January of the year following such election.

9. In any county which adopts the provisions of subsections 1 to 7 of this section prior to the first day of June in any year pursuant to subsection 8 of this section, the assessor of such county shall, upon application of the property owner, remove on a pro rata basis from the tax book for the current year any residential real property improvements destroyed by a natural disaster if such property is unoccupied and uninhabitable due to such destruction. On or after the first day of June, the board of equalization shall perform such duties. Any person claiming such destroyed property shall provide a list of such destroyed property to the county assessor. The assessor shall have available a supply of appropriate forms on which the claim shall be made. The assessor may verify all such destroyed property listed to ensure that the person made a correct statement. Any person who completes such a list and, with intent to defraud, includes property on the list that was not destroyed by a natural disaster shall, in addition to any other penalties provided by law, be assessed double the value of any property fraudulently listed. The list shall be filed by the assessor, after he has provided a copy of the list to the county collector and the board of equalization, in the office of the county clerk who, after entering the filing thereof, shall preserve and safely keep them. If the assessor, subsequent to such destruction,

considers such property occupied as provided in subsection 2 of this section, the assessor shall consider such property new construction and improvements and shall assess such property accordingly as provided in subsection 1 of this section. For the purposes of this section, the term "natural disaster" means any disaster due to natural causes such as tornado, fire, flood, or earthquake.

10. Any political subdivision may recover the loss of revenue caused by subsection 9 of this section by adjusting the rate of taxation, to the extent previously authorized by the voters of such political subdivision, for the tax year immediately following the year of such destruction in an amount not to exceed the loss of revenue caused by this section.

Approved July 9, 2003

SB 121 [SB 121]

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

Includes Cass County in a certain planning and zoning program.

AN ACT to repeal section 64.905, RSMo, relating to county planning and zoning, and to enact in lieu thereof one new section relating to the same subject.

SECTION
A. Enacting clause.
64.905. Purpose of sections 64.800 to 64.905 — effect of adoption on preexisting program — Clay County and Cass County may operate pursuant to planning and zoning laws other than those of a county of the first classification.

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

SECTION A. ENACTING CLAUSE. — Section 64.905, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 64.905, to read as follows:

64.905. PURPOSE OF SECTIONS 64.800 TO 64.905 — EFFECT OF ADOPTION ON PREEXISTING PROGRAM — CLAY COUNTY AND CASS COUNTY MAY OPERATE PURSUANT TO PLANNING AND ZONING LAWS OTHER THAN THOSE OF A COUNTY OF THE FIRST CLASSIFICATION. — 1. The provisions of sections 64.800 to 64.905 are established as an alternative to the provisions of sections 64.510 to 64.690 for counties of the second and third classifications, and as an alternative to the provisions of sections 64.211 to 64.295 for counties of the first classification not having a charter form of government.

2. Except as provided in subsections 4 and 5 of this section, if the voters of any county of the second or third classification adopt county planning or zoning pursuant to the provisions of sections 64.800 to 64.905 after having previously adopted county planning or zoning pursuant to the provisions of sections 64.510 to 64.690, the provisions of sections 64.800 to 64.905 shall be effective in the county, and the county planning or zoning shall be conducted thereafter as provided in sections 64.800 to 64.905 rather than as provided in sections 64.510 to 64.690.

3. Except as provided in subsections 4 and 5 of this section, any county of the second classification which adopts county planning or zoning pursuant to the provisions of sections 64.800 to 64.905 or 64.510 to 64.690 prior to becoming a county of the first classification not having a charter form of government shall continue to operate pursuant to those provisions as a county of the first classification until the county planning or zoning program is terminated

pursuant to the provisions of section 64.900. After the termination of county planning or zoning pursuant to sections 64.800 to 64.905, the county commission of any county of the first classification not having a charter form of government may exercise all powers and duties prescribed by and may elect to come under the provisions of sections 64.211 to 64.295.

4. Notwithstanding the provisions of subsections 2 and 3 of this section, in any county of the first classification without a charter form of government which has a population of at least one hundred fifty thousand inhabitants which contains all or a portion of a city with a population of at least three hundred thousand inhabitants, **and in any county of the first classification without a charter form of government having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants,** which has adopted planning and zoning prior to becoming a county of the first classification, the county governing body may, by ordinance, provide that the county's planning and zoning may be conducted as provided in sections 64.510 to 64.690, sections 64.800 to 64.905 or sections 64.211 to 64.295.

Approved July 9, 2003

SB 122 [SCS SB 122]

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

Enables the assessor in third class counties to make certain entries to the assessor's book after delivery of the book.

AN ACT to amend chapter 137, RSMo, by adding thereto one new section relating to dates of delivery of certain assessors' tax books.

SECTION
A. Enacting clause.
137.083. Assessor in counties of third classification may make changes in assessor's book, when, content, effective when county elects to adopt.

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

SECTION A. ENACTING CLAUSE. — Chapter 137, RSMo, is amended by adding thereto one new section, to be known as section 137.083, to read as follows:

137.083. ASSESSOR IN COUNTIES OF THIRD CLASSIFICATION MAY MAKE CHANGES IN ASSESSOR'S BOOK, WHEN, CONTENT, EFFECTIVE WHEN COUNTY ELECTS TO ADOPT. — 1. In any county of the third classification, the assessor may make changes to the assessor's book after the date of delivery pursuant to section 137.245. The assessor may only make such changes if the ownership of a parcel of real property has changed since the latest entry in the assessor's book. An ownership change shall include both a full and a partial divestment of such real property and any additions thereto to a subsequent owner. The change to the assessor's book shall be limited to reallocating the assessed valuation of the property before such full or partial divestment among the prior and current owners to reflect such full or partial divestment.

2. Any increase in assessed valuation resulting from the implementation of the provisions of this section shall be considered new construction and improvements under the provisions of this chapter.

3. Subsections 1 to 2 of this section shall be effective in those counties of the third classification in which the governing body of such county elects to adopt a proposal to implement the provisions of subsections 1 to 2 of this section.

Approved July 9, 2003

SB 130 [HCS SCS SB 130]

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 along Knaust Road in St. Charles County.

AN ACT to authorize the conveyance of property along 321 Knaust Road to St. Charles County, Missouri, with an emergency clause.

SECTION

1. Authority to convey property along Knaust Road to St. Charles County.
2. Governor authorized to convey property along 321 Knaust Road to St. Charles County for public road right-of-way.

B. Emergency clause.

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

SECTION 1. AUTHORITY TO CONVEY PROPERTY ALONG KNAUST ROAD TO ST. CHARLES COUNTY. — 1. The governor is hereby authorized to convey a temporary construction easement in property along 321 Knaust Road to St. Charles County, Missouri, for the purpose of public road right-of-way for the Knaust Road Improvement Project. The tract being a part of a tract of land in the North one-half of the Northwest one-quarter of the Factional Section 3, Township 46 North - Range 3 East, St. Charles County, Missouri, as obtained from County records, more particularly described as follows:

Commencing at the Southwest corner of the North one-half of the Northwest one-quarter of said fractional Section 3, Township 46 North - Range 3 East; said point being the South West, corner of property conveyed to Lawrence. W. Riley and wife by deed recorded in Book 564 page 297 of the St. Charles County Records; thence Eastwardly along the South line of said North one-half of the Northwest one-quarter of Fractional Section 3, being also along said South line of the Riley property and its Eastwardly prolongation, North 89° 23' 14" East, 923.28 feet to a point in the East line of Knaust Road, 40 feet wide (as traveled); thence North 89° 23' 14" East; 12.53 feet to a point, said point being the point of beginning; thence North 4° 45' 8" West, 147.87 feet to a point; thence North 3° 34' 40" West, 128.60 feet to a point; thence North 6° 6' 40" West, 124.66 feet to a point; thence North 89° 22' 27" East, 15.29 feet to a point; thence South 7° 50' 51" East, 316.74 feet to a point; thence South 14° 37' 33" West, 50.97 feet to a point; thence South 8° 32' 32" East, 36.96 feet to a point; thence South 89° 22' 27" West, 17.61 feet to the point of beginning. Contains 8,846 square feet more or less.

2. The attorney general shall approve the form of the instruments of conveyance.

3. Consideration for the conveyance of title to the parcel of property 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.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY PROPERTY ALONG 321 KNAUST ROAD TO ST. CHARLES COUNTY FOR PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property along 321 Knaust Road to St. Charles County, Missouri, for the purpose of public road right-of-way. The tract being a part of a tract of land in the North one-half of the Northwest one-quarter of the Factional Section 3, Township 46 North - Range 3 East, St. Charles County, Missouri, as obtained from County records, more particularly described as follows:

A tract of land in the North one-half of the Northwest one-quarter of the Fractional Section 3, Township 46 North - Range 3 East, St. Charles County, Missouri, as obtained from County records, and being more particularly described as: Commencing at the Southwest corner of the North one-half of the Northwest one-quarter of said fractional Section 3, Township 46 North - Range 3 East; said point being the South West, corner of property conveyed to Lawrence. W. Riley and wife by deed recorded in Book 564 page 297 of the St. Charles County Records; thence Eastwardly along the South line of said North one-half of the Northwest one-quarter of Fractional Section 3, being also along said South line of the Riley property and its Eastwardly prolongation, North 89° 22' 27" East, 923.28 feet to a point in the East, line of Knaust Road 40 feet wide (as traveled); said point being the actual point of beginning; thence North 4° 45' 8" West, 146.95 feet to a point; thence North 3° 34' 40" West, 128.42 feet to a point; thence North 6° 6' 40" West, 125.76 feet to a point; thence North 89° 22' 27" East, 12.56 feet to a point; thence South 6° 6' 40" East 124.66 feet to a point; thence South 3° 34' 40" East, 128.60 feet to a point; thence South 4° 45' 8" East, 147.87 feet to a point; thence South 89° 22' 27" West, 12.53 feet to the point of beginning. Contains 5,012 square feet more or less.

2. The attorney general shall approve the form of the instruments of conveyance.

3. Consideration for the conveyance of title to the parcel of property 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.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent the disturbance of local elementary and secondary education institutions, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 1, 2003

SB 136 [HCS SB 136]

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

Changes filing and meeting dates for offices in political subdivisions and special districts.

AN ACT to repeal sections 77.070, 115.127, and 162.301, RSMo, and to enact in lieu thereof three new sections relating to elections.

SECTION

A. Enacting clause.
77.070. President pro tem.

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, exceptions for certain home rule cities — candidate withdrawing, ballot reprinting, cost, how paid.
162.301. Organization of board — quorum — officers.

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

SECTION A. ENACTING CLAUSE. — Sections 77.070, 115.127, and 162.301, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 77.070, 115.127, and 162.301, to read as follows:

77.070. PRESIDENT PRO TEM. — At the first regular meeting of the city council after the election in each year — which meeting shall occur at the time fixed by ordinance, but shall not be later than the **[**third**]** **fourth** Tuesday in April — the council shall elect one of its members president pro tem, who shall hold his office for the term of one year, and who, in the absence of the mayor, shall preside at the meetings of the council; provided, that in the absence of the mayor and president pro tem the council may select one of its members present to preside at such meetings, who shall be styled "acting president pro tem".

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, EXCEPTIONS FOR CERTAIN HOME RULE CITIES — 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 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 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**]** **sixteenth** 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**]** **sixteenth** 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.

162.301. ORGANIZATION OF BOARD — QUORUM — OFFICERS. — 1. Within **[**seven**]** **fourteen** days after the election of the first school board in each seven-director district, other than an urban district, and within **[**seven**]** **fourteen** days after each annual election, the board shall meet. The newly elected members shall qualify by taking the oath of office prescribed by article VII, section 11, of the Constitution of Missouri.

2. The board shall organize by the election of a president and vice president, and the board shall, on or before the fifteenth day of July of each year, elect a secretary and a treasurer, who shall enter upon their respective duties on the fifteenth day of July. The secretary and treasurer may be or may not be members of the board. No compensation shall be granted to either the secretary or the treasurer until his report and settlement are made and filed or published as the law directs.

3. A majority of the board constitutes a quorum for the transaction of business, but no contract shall be let, person employed, bill approved or warrant ordered unless a majority of the whole board votes therefor.

Approved July 3, 2003

SB 143 [SB 143]

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

Specifies the effective dates for vetoed bills when veto is overridden.

AN ACT to repeal section 21.250, RSMo, relating to powers of the general assembly, and to enact in lieu thereof one new section relating to the same subject.

SECTION
A. Enacting clause.
21.250. Statutes, how authenticated when passed over veto, effective, when.

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

SECTION A. ENACTING CLAUSE. — Section 21.250, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 21.250, to read as follows:

21.250. STATUTES, HOW AUTHENTICATED WHEN PASSED OVER VETO, EFFECTIVE, WHEN. — When a bill that has passed both houses of the general assembly is returned by the governor without his signature, and with objections thereto, and upon a reconsideration, passes both houses by the constitutional majority, it shall be authenticated as having become a law, by a certificate endorsed thereon, or attached thereto, in the following form:

This bill having been returned by the governor, with his objections thereto and, after reconsideration, having passed both houses by the constitutional majority, it has become a law, this .... day of .....

Which, being signed by the president of the senate and speaker of the house of representatives, is sufficiently authenticated, and the bill shall be deposited with the laws in the office of the secretary of state, by the presiding officer of the house in which the bill originated. **Unless the bill provides otherwise, it shall become effective thirty days after approval by constitutional majorities in both houses of the general assembly.**

Approved July 9, 2003

SB 175 [HCS SB 175]

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 food recovery program to provide food to needy persons.

AN ACT to repeal sections 196.365, 196.367, 196.370, 196.375, 196.380, 196.385, 196.390, 196.395, 196.400, 196.405, 196.415, 196.420, 196.425, 196.430, 196.435, 196.436, 196.440, and 196.445, RSMo, and to enact in lieu thereof one new section relating to food recovery inspection and safety by the department of health and senior services.

SECTION
A. Enacting clause.
192.081. Donation of canned or perishable food — definitions — procedure — immunity from liability, when — department to provide information.
196.365. License required to manufacture, or distribute — soft drinks defined — application — expiration.
196.367. Manufacturer's exemption, conditions.
196.370. Inspection of manufactory — analysis of products — license.
196.375. License and inspection fees on products sold in state.
196.380. Products for export — no fee.
196.385. Products for import — inspection, analysis — license — fee.
196.390. Duplicate bill of lading required from transportation company.

196.395. Certification of contents of products imported.
196.400. Use of impure ingredients prohibited.
196.405. Monthly report to department of health and senior services — books open to inspection.
196.415. Labeling of bottles and containers — filling or refilling.
196.420. Sanitary requirements for soft drink containers, how established.
196.425. Department to keep record of manufacturers and bottlers — annual report to governor.
196.430. Expenses paid by whom — disposition of fees.
196.435. Revocation of licenses.
196.436. Review by administrative hearing commission.
196.440. Department to make rules and regulations.
196.445. Penalty for violation.

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

SECTION A. ENACTING CLAUSE. — Sections 196.365, 196.367, 196.370, 196.375, 196.380, 196.385, 196.390, 196.395, 196.400, 196.405, 196.415, 196.420, 196.425, 196.430, 196.435, 196.436, 196.440, and 196.445, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 192.081, to read as follows:

192.081. DONATION OF CANNED OR PERISHABLE FOOD — DEFINITIONS — PROCEDURE — IMMUNITY FROM LIABILITY, WHEN — DEPARTMENT TO PROVIDE INFORMATION. — 1. As used in this section, the following terms mean:

(1) "Canned food", food that is commercially processed in hermetically sealed containers;

(2) "Donor", any restaurant, cafeteria, fast food restaurant, delicatessen, or other facility principally engaged in selling food for consumption on the premises;

(3) "Food", any raw, cooked, canned, perishable, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption;

(4) "Hermetically sealed container", a container that is designed and intended to be secure against the entry of microorganisms and thereby to maintain the commercial sterility of its content after processing;

(5) "Perishable food", any food having a significant risk of spoilage, loss of value, or loss of palatability within ninety days of the date of packaging;

(6) "Prepared food", any food prepared, designed, or intended for human consumption including, without limitation, those foods prepared principally from agricultural, dairy, or horticultural produce or with meat, fish, or poultry.

2. Each potential donor, to the greatest extent possible and practicable, may make available to any bona fide charitable or nonprofit organization, to any representative or volunteer acting on behalf of such organization, to an uncompensated person acting in a philanthropic manner providing services similar to those of such an organization, or to a transporter of any surplus or excess canned or perishable food for use by such organization or person to feed homeless persons or other persons who are in need of food and are otherwise unable to provide food for themselves. In achieving this intent, the following provisions shall apply:

(1) Each donor may contact charitable or nonprofit organizations in the community in which the donor operates in order to provide for the collection by such organizations of any surplus or excess canned food or perishable food from the donor;

(2) Each charitable or nonprofit organization in this state which provides to the community in which it operates food for persons who are in need of food or are otherwise unable to provide food for themselves, or which collects and transports such food to such organizations, shall make every reasonable effort to contact any donors within the organization's area of operations for purposes of collecting any surplus or excess canned food or perishable food for use in providing such services.

3. A good faith donor of any canned or perishable food, apparently fit for human consumption, to a bona fide charitable or nonprofit organization for free distribution shall not be subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by the gross negligence, recklessness, or intentional misconduct of the donor.

4. A bona fide charitable or nonprofit organization, or any representative or volunteer acting on behalf of such organization or an uncompensated person acting in a philanthropic manner providing services similar to those of such an organization or transporter of any surplus or excess canned or perishable food for use by such organization which in good faith accepts, collects, transports, or distributes any canned or perishable food for free distribution and which reasonably inspects the food at the time of the donation and finds the food apparently fit for human consumption shall not be subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by the gross negligence, recklessness, or intentional misconduct of an agent of the charitable or nonprofit organization.

5. The department of health and senior services shall make available information detailing the need of food-recovery programs, the benefit of food-recovery programs, the manner in which such organizations may become involved in food-recovery programs and the food-recovery entities or food banks that exist in the state. This information must be updated annually.

[196.365. LICENSE REQUIRED TO MANUFACTURE, OR DISTRIBUTE — SOFT DRINKS DEFINED — APPLICATION — EXPIRATION. — 1. It shall be unlawful to make, manufacture, or in any manner produce or distribute any soft drinks or beverages, excepting malt beverages, without first obtaining a license from the department of health and senior services, as in sections 196.365 to 196.445 required.

2. The term "soft drinks" as used in sections 196.365 to 196.445 shall be held to mean and include all beverages of every kind manufactured or sold in this state, which shall be understood to include those containing less than one-half of one percent of or no alcohol, including carbonated beverages, still drinks, seltzer water, artificial or natural mineral waters, and all other waters used and sold for beverage purposes.

3. Application for such license shall be made to the department of health and senior services on a blank prescribed by the department for that purpose. Such license shall expire on the thirtieth day of June next following the day of issuance thereof.**]**

[196.367. MANUFACTURER'S EXEMPTION, CONDITIONS. — Effective July 1, 2005, any manufacturer or distributor shall be exempted from the provisions of sections 196.365 to 196.445 if the manufacturer satisfies all applicable Food and Drug Administration regulations.**]**

[196.370. INSPECTION OF MANUFACTORY — ANALYSIS OF PRODUCTS — LICENSE. — Upon receipt of the application the department of health and senior services shall cause an examination and inspection to be made into the sanitary conditions of such place of manufacture and may also cause an analysis to be made of the products of such manufacturer. If the buildings and equipment so to be used found by the department of health and senior services to be in a sanitary condition and the analysis of said products or samples thereof show the same to be unadulterated and free from ingredients injurious to health, the department of health and senior services upon payment of a license fee as provided by sections 196.365 to 196.445, shall cause a license to be issued authorizing the applicant to manufacture any such soft drinks or beverages. Such license shall be renewed annually upon the same terms and conditions as required for the original license.**]**

[196.375. LICENSE AND INSPECTION FEES ON PRODUCTS SOLD IN STATE. — A license fee of one dollar shall be paid by each manufacturer or distributor of soft drinks or beverages required to be licensed under the provisions of sections 196.365 to 196.445; and in addition thereto an inspection fee shall be paid by wholesale manufacturers or distributors of soft drinks or beverages of three-tenths cent for each gallon of such beverage manufactured or sold in this state, but the fees for inspection shall not exceed four cents per month per case of twenty-four bottles or cans of such manufacturer's bottling or canning capacity, as determined by the rated capacity of the machines therein for an eight-hour day as rated by the manufacturer of such machines. All fees received shall be paid into the state treasury.**]**

[196.380. PRODUCTS FOR EXPORT — NO FEE. — All beverages, soft drinks, sirups, flavors or extracts as in sections 196.365 to 196.445 described, which are manufactured, prepared or bottled in this state and exported outside of this state for sale, shall be inspected as other beverages, soft drinks, sirups, flavors or extracts designated in said sections, but such inspection shall be free of cost to the manufacturer or bottler.**]**

[196.385. PRODUCTS FOR IMPORT — INSPECTION, ANALYSIS — LICENSE — FEE. — No such bottled soft drinks or beverages that are manufactured out of the state of Missouri shall be sold or offered for sale within the state unless the same is first inspected and analyzed and approved by the department of health and senior services which shall be upon a like application as provided in section 196.365 and a license fee of one dollar shall be paid therefor; and in addition thereto an inspection fee of three-tenths cent for each gallon of such beverages sold in this state by such manufacturer shall be paid by such manufacturer. Like samples for such inspection and analysis shall be furnished as herein provided for Missouri manufacturers. Such license shall be renewed annually upon the same terms and conditions as required for the original license.**]**

[196.390. DUPLICATE BILL OF LADING REQUIRED FROM TRANSPORTATION COMPANY. — Every railroad, express or transportation company shall, when requested, furnish to the department of health and senior services a duplicate bill of lading or receipt showing the name of the consignor and consignee, date, place received, destination and quantity of soft drinks or beverages, sirups, extracts or flavors received by them for shipment to any point within this state. Upon failure to comply with the provisions therein, said railroad, express or transportation company shall pay to the state of Missouri the sum of fifty dollars for each and every failure, to be recovered in any court of competent jurisdiction. The department of health and senior services is hereby authorized and empowered to sue in its name at the relation and to the use of the state and any sums thus collected shall be paid into the state treasury.**]**

[196.395. CERTIFICATION OF CONTENTS OF PRODUCTS IMPORTED. — Every person, firm or corporation who shall receive for sale or offer for sale any such nonintoxicating beverages or soft drinks, fountain or other sirups, flavors or extracts other than those manufactured, prepared or bottled in this state, shall, upon receipt of same, and before offering same for sale, notify the department of health and senior services who shall be furnished with a sworn affidavit subscribed by an officer authorized to administer oaths, from the manufacturer or bottler or other reputable person having actual knowledge of the composition of such beverages, sirups or flavors, that no material which is not pure, clean or wholesome was used in the manufacture of same.**]**

[196.400. USE OF IMPURE INGREDIENTS PROHIBITED. — No person, persons, firm or corporation engaged in the manufacture or bottling within this state of any nonintoxicating beverage or soft drink, as that term is described in section 196.365, or of fountain sirups, flavors or extracts intended for use in the preparation or concoction of such beverages or soft drinks,

shall use any substance materially or chemically in the manufacture, bottling or preparation of such beverages which is not pure, clean and wholesome.**]**

[196.405. MONTHLY REPORT TO DEPARTMENT OF HEALTH AND SENIOR SERVICES — BOOKS OPEN TO INSPECTION. — All manufacturers, wholesalers and dealers in bottling soft drinks, beverages, sirups, flavors or extracts shall keep an accurate account of their sales and make a report under oath at the end of each month to the department of health and senior services with a remittance to cover all sales for the month, unless such manufacturer or bottler pays the maximum inspection fee based on the bottling capacity of such manufacturer's or bottler's plant pursuant to section 196.375. The books of such manufacturers, bottlers, wholesalers or dealers shall at all times be open to examination and inspection by the department of health and senior services and its officers and agents.**]**

[196.415. LABELING OF BOTTLES AND CONTAINERS — FILLING OR REFILLING. — No person, firm or corporation shall sell, offer for sale or give away within the state any beverages in bottles or other containers unless each of such bottles or containers shall have blown into it, etched or engraved, or otherwise labeled thereon, the name of the person, firm or corporation manufacturing or bottling such beverage or the name of the registered trademark of such beverages. The filling or refilling of any bottles or other containers with soft drinks, or beverages with intent to sell or vend such soft drinks or beverages which bears the label of any other person, firm or corporation, without the consent of such person, firm or corporation, shall be deemed a violation of sections 196.365 to 196.445.**]**

[196.420. SANITARY REQUIREMENTS FOR SOFT DRINK CONTAINERS, HOW ESTABLISHED. — All containers used in the packaging of soft drinks shall be clean and sanitary at the time of selling, in accordance with regulations established by the department of health and senior services, after public notice and hearing.**]**

[196.425. DEPARTMENT TO KEEP RECORD OF MANUFACTURERS AND BOTTLERS — ANNUAL REPORT TO GOVERNOR. — The department of health and senior services shall record on books kept for that purpose the names and places of business of all persons, firms and corporations engaged in the manufacture, preparation or bottling of all nonintoxicating beverages or soft drinks or sirups, flavors or extracts as described in section 196.365. The department shall keep a record of all nonintoxicating beverages or soft drinks manufactured, prepared or bottled and the amount produced by each manufacturer or bottler or sold by dealer, or in the case of manufacturers in this state, of the bottling capacity of such manufacturer's plant and shall keep a record of all inspections made. The department shall keep a record of all fees collected and all expenditures incurred and shall make a full and complete report of the same to the governor upon the first day of each year.**]**

[196.430. EXPENSES PAID BY WHOM — DISPOSITION OF FEES. — The expense of the department of health and senior services incurred in carrying out the provisions of sections 196.365 to 196.445, including salaries, traveling expenses of officials or employees and of supplies, shall be paid in the same manner as other expenses of the department of health and senior services pursuant to the laws relating thereto; and all fees shall be payable to and collected by the state director of revenue and shall be deposited by him in the state treasury to the credit of the general revenue fund of the state.**]**

[196.435. REVOCATION OF LICENSES. — The department of health and senior services shall have power to revoke any license issued under the provisions of sections 196.365 to 196.445 whenever said department shall determine that any provision of sections 196.365 to 196.445 or the rules and regulations of the department of health and senior services made in

pursuance to the sections have been violated. Any person, firm or corporation whose license has been revoked, shall discontinue the manufacture and sale of soft drinks or beverages until the provisions of sections 196.365 to 196.445 have been complied with and a new license issued. The department of health and senior services may revoke such license temporarily until there is a compliance with the provisions of sections 196.365 to 196.445 or the rules and regulations of the department of health and senior services made in pursuance to said sections.**]**

[196.436. 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 the provisions of sections 196.365 to 196.445, 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 161.272, 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.**]**

[196.440. DEPARTMENT TO MAKE RULES AND REGULATIONS. — The department of health and senior services may make suitable rules and regulations for the carrying out of the provisions of sections 196.365 to 196.445.**]**

[196.445. PENALTY FOR VIOLATION. — Any person who shall violate any of the provisions of sections 196.365 to 196.445 shall be deemed guilty of a misdemeanor and shall, upon conviction thereof be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not exceeding ninety days, or by both such fine and imprisonment.**]**

Approved July 1, 2003

SB 184 [HS HCS SB 184]

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 sexual offender registry to be posted on the Internet.

AN ACT to repeal sections 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 195.505, 210.903, 210.909, 210.922, 210.937, 221.320, 221.340, 221.350, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170, and to enact in lieu thereof twenty-three new sections relating to criminal records, with penalty provisions.

SECTION

A. Enacting clause.
43.500. Definitions.
43.503. Arrest, charge and disposition of misdemeanors and felonies to be sent to highway patrol — procedure for certain juveniles.
43.506. Crimes to be reported, exceptions — method of reporting — repository of latent prints.
43.527. Payment for records, exceptions.
43.530. Fees, method of payment — criminal record system fund, established — fund not to lapse.
43.532. Use of records, limitations — authority of central records repository to retain information — unlawful obtaining of information, penalty.
43.540. Criminal record review — definitions — patrol to conduct review, when, procedure, confidentiality, violation, penalty — patrol to provide forms.
43.542. Approval of National Crime Prevention and Privacy Compact — execution of compact.

43.543. Certain agencies to submit fingerprints, use of fingerprints for background search — procedure for submission.
43.650. Internet site to be maintained, registered sex offender search — confidentiality, release of information, when.
195.505. Formation of group — power of arrest — cooperation.
210.903. Family care safety registry and access line established, contents.
210.909. Department duties — information included in registry, when — registrant notification.
210.922. Use of registry information by certain departments, when.
221.320. Board of visitors — appointment — terms.
221.340. Duties of board.
221.350. Board to make yearly report.
589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration.
589.407. Registration, required information.
589.414. Registrant's duties on change of address — time limitations for certain notifications.
610.120. Records to be confidential — accessible to whom, purposes.
610.123. Procedure to expunge, supreme court to promulgate rules — similar to small claims.
630.170. Disqualification for employment because of conviction — appeal process — criminal record review, procedure — registry maintained, when.
43.521. Juveniles not to be fingerprinted, exception.
210.937. Termination date of safety registration and access line.
210.937. Termination date of safety registration and access line.

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

SECTION A. ENACTING CLAUSE. — Sections 43.500, 43.503, 43.506, 43.521, 43.527, 43.530, 43.540, 43.543, 195.505, 210.903, 210.909, 210.922, 210.937, 221.320, 221.340, 221.350, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 43.500, 43.503, 43.506, 43.527, 43.530, 43.532, 43.540, 43.542, 43.543, 43.650, 195.505, 210.903, 210.909, 210.922, 221.320, 221.340, 221.350, 589.400, 589.407, 589.414, 610.120, 610.123 and 630.170, to read as follows:

43.500. DEFINITIONS. — As used in sections 43.500 to **[**43.530**]** **43.543**, the following terms mean:

(1) **"Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history information, including fingerprint searches, photographs, and other indicia of identification;**

(2) "Central repository", the Missouri state highway patrol criminal records **and identification** division for compiling and disseminating complete and accurate criminal history records **and for compiling, maintaining, and disseminating criminal incident and arrest reports and statistics**;

[(2)**]** **(3)** "Committee", criminal records **and justice information** advisory committee;

[(3)**]** **(4)** "Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release;

[(4)**]** **(5)** "Final disposition", the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system;

(6) "Missouri charge code", a unique number assigned by the office of state courts administrator to an offense for tracking and grouping offenses. Beginning January 1, 2005, the complete charge code shall consist of digits assigned by the office of state courts administrator, the two digit national crime information center modifiers and a single digit

designating attempt, accessory, or conspiracy. The only exception to the January 1, 2005, date shall be the courts that are not using the statewide court automation case management pursuant to section 476.055, RSMo; the effective date will be as soon thereafter as economically feasible for all other courts;

[(5)**]** **(7)** "State offense cycle number", a **[**preprinted**]** **unique** number**, supplied by or approved by the Missouri state highway patrol,** on the state **criminal** fingerprint card **[**which**]. The offense cycle number, OCN,** is used to **[**identify each arrest which may include multiple offenses for which a person is fingerprinted. This number**] link the identity of a person, through fingerprints, to one or many offenses for which the person is arrested or charged. The OCN** will be **[**associated with**] used to track** an offense incident from the date of arrest to the **[**date**] final disposition when** the offender exits from the criminal justice system**[**;

(6) "Without undue delay", as soon as possible but not later than thirty days after the criminal history event;

(7) "Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information, including fingerprint searches, photographs, and other indicia of identification**]**.

43.503. ARREST, CHARGE AND DISPOSITION OF MISDEMEANORS AND FELONIES TO BE SENT TO HIGHWAY PATROL — PROCEDURE FOR CERTAIN JUVENILES. — 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to **[**43.530**] 43.543**.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, **appropriate charge codes,** and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied **or approved** by the highway patrol **or electronically in a format and manner approved by the highway patrol**. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, **appropriate charge codes,** and descriptions to the central repository upon its behalf.

3. In instances where an individual less than seventeen years of age **and not currently certified as an adult** is taken into custody for an offense which would be **[**considered**]** a felony if committed by an adult, the arresting officer shall take **[**one set of**]** fingerprints for the central repository **[**and may take another set for inclusion in a local or regional automated fingerprint identification system**]**. These fingerprints shall be taken on fingerprint cards **[**which are plainly marked "juvenile card" and shall be provided by the central repository**] supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol**. The fingerprint cards shall be so constructed that **[**only the fingerprints, unique identifying number, and the court of jurisdiction are**] the name of the juvenile should not be** made available to the central **[**or local**]** repository. **[**The remainder of the card which bears**]** The individual's **[**identification**] name** and the **[**duplicate**]** unique number **associated with the fingerprints and other pertinent information** shall be provided to the court of jurisdiction **by the agency taking the juvenile into custody**. The **[**appropriate portion of the juvenile fingerprint card**] juvenile's fingerprints and other information** shall be forwarded to the central repository and the courts without undue delay. The fingerprint

information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. [The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards.] In the event the fingerprints [from this card] are found to match **other tenprints or unsolved** latent prints [searched in the automated fingerprint identification system], **the central repository shall notify the submitting agency who shall notify** the court of jurisdiction [shall be so advised] **as per local agreement**.

4. Upon certification of the individual as an adult, the court shall order a law enforcement agency to immediately fingerprint the individual. The law enforcement agency shall submit such fingerprints to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed records as provided under section 610.100, RSMo, if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126, RSMo.

[3.] **5.** The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol **or in a manner approved by the highway patrol** of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, **the charge code for the offense,** and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

[4.] **6.** The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol **or in a manner approved by the highway patrol**, with all final dispositions of [criminal] cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to [subsections 6 and 7 of this section] **sections 43.500 to 43.506**. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the [reporting] **sentencing** court, using such numbers as assigned by the highway patrol.

[5.] **7.** The clerk of the courts of each county or city not within a county shall furnish**, to the department of corrections or department of mental health,** court judgment and sentence documents and the state offense cycle number **and the charge code** of the offense**[,]** which [result] **resulted** in the commitment or assignment of an offender**[,]** to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the

time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested **or in a manner and format mutually agreed to**, within **[**ten**]** **fifteen** days of such disposition.

[6. After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, or commits a person to the department of mental health pursuant to chapter 552, RSMo,**]** **8. Information and fingerprints, and other indicia forwarded to the central repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint the person and obtain the necessary information at any time the subject is in custody. If at the time of disposition, the defendant has not been fingerprinted for an offense in which a fingerprint is required by statute to be collected, maintained, or disseminated by the central repository,** the court shall order a law enforcement agency to fingerprint immediately **[**all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case**]** **the defendant**. The law enforcement agency shall submit such fingerprints to the central repository without undue delay **and within thirty days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted**.

[7.**]** **9.** The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, **legal name change,** or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to **[**43.530**]** **43.543** shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

43.506. CRIMES TO BE REPORTED, EXCEPTIONS — METHOD OF REPORTING — REPOSITORY OF LATENT PRINTS. — 1. Those offenses considered reportable for the purposes of sections 43.500 to **[**43.530**]** **43.543** include all felonies and serious or aggravated misdemeanors consistent with the reporting standards established by the National Crime Information Center, Federal Bureau of Investigation, for the Federal Interstate Identification Index System. In addition, all cases arising pursuant to sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense involving a child under seventeen years of age and the court imposes a suspended imposition of sentence shall be reported. The following types of offenses shall not be considered reportable for the purposes of sections 57.403, RSMo, 43.500 to **[**43.530**]** **43.543**, and 595.200 to 595.218, RSMo: disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific charges of suspicion or investigation, and general traffic violations and all misdemeanor violations of the state wildlife code. All violations for driving under the influence of drugs or alcohol are reportable. All offenses considered reportable shall be reviewed annually and noted in the Missouri charge code manual established in section 43.512. All information collected pursuant to sections 43.500 to **[**43.530**]** **43.543** shall be available only as set forth in section 610.120, RSMo.

2. **[**With the exception of the manual reporting of arrests and fingerprints by law enforcement agencies as noted in subsection 2 of section 43.503, and notwithstanding subsections 2 to 7 of section 43.503,**]** Law enforcement agencies, court clerks, prosecutors and custody agencies may report required information by electronic medium either directly to the central repository or indirectly to the central repository via other criminal justice agency computer

systems in the state with the approval of the [advisory committee] **highway patrol, based upon standards established by the advisory committee**.

3. In addition to the repository of fingerprint records for individual offenders **and applicants**, the central repository of criminal history **and identification** records for the state shall maintain a repository of latent prints**, palm prints and other prints submitted to the repository**.

43.527. PAYMENT FOR RECORDS, EXCEPTIONS. — For purposes of sections 43.500 to [43.530] **43.543** all federal and nonstate of Missouri agencies **and persons** shall pay for criminal records checks, fingerprint searches, and any of the information as defined in subdivision (3) of section 43.500, when such information is not related to the administration of criminal justice. **There shall be no charge for information supplied to criminal justice agencies for the administration of criminal justice.** For purposes of sections 43.500 to [43.530] **43.543** the administration of criminal justice is defined in subdivision [(7)] **(1)** of section 43.500 **and shall be available only as set forth in section 610.120, RSMo**.

43.530. FEES, METHOD OF PAYMENT — CRIMINAL RECORD SYSTEM FUND, ESTABLISHED — FUND NOT TO LAPSE. — **1.** For each request **requiring the payment of a fee** received by the central repository, [as defined in subdivision (1) of section 43.500,] the requesting entity shall pay a fee of not more than five dollars per request for criminal history record information **not based on a fingerprint search** and pay a fee of not more than fourteen dollars per request for [classification and search of fingerprints] **criminal history record information based on a fingerprint search**. Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, or money order payable to the state of Missouri-criminal record system **or payment shall be made in a manner approved by the highway patrol**. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in [section 43.527] **sections 43.500 to 43.543**, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

2. For purposes of obtaining criminal records prior to issuance of a school bus operator's permit pursuant to section 302.272, RSMo, and for determining eligibility for such permit, the applicant for such permit shall submit two sets of fingerprints to the director of revenue when applying for the permit. The fingerprints shall be collected in a manner approved by the superintendent of the highway patrol. The school bus permit applicant shall pay the appropriate fee described in this section and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit. Collections for records described in this subsection shall be deposited in the criminal record system fund.

43.532. USE OF RECORDS, LIMITATIONS — AUTHORITY OF CENTRAL RECORDS REPOSITORY TO RETAIN INFORMATION — UNLAWFUL OBTAINING OF INFORMATION, PENALTY. — **1. Criminal history and identification records obtained from the central repository shall be used solely for the purpose for which they were obtained. The subject of the record shall be afforded the opportunity to challenge the correctness, accuracy, or completeness of a criminal history record.**

2. The central records repository shall have authority to engage in the practice of collecting, assembling, or disseminating criminal history record information for the purpose of retaining manually or electronically stored criminal history information. Any person obtaining criminal history record information from the central repository under false pretense, or who advertises or engages in the practice of collecting, assembling, and

disseminating as a business enterprise, other than for the purpose of furnishing criminal history information to the authorized requester for its intended purpose, is guilty of a class A misdemeanor.

43.540. CRIMINAL RECORD REVIEW — DEFINITIONS — PATROL TO CONDUCT REVIEW, WHEN, PROCEDURE, CONFIDENTIALITY, VIOLATION, PENALTY — PATROL TO PROVIDE FORMS. — 1. As used in this section, the following terms mean:

(1) **"Authorized state agency", a division of state government or an office of state government designated by the statutes of Missouri to issue or renew a license, permit, certification, or registration of authority to a qualified entity;**

(2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;

(3) "**Missouri** 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**] review of criminal history records or sex offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the Missouri state highway patrol in the Missouri criminal records repository**;

(4) "National criminal record review", a review of the criminal history records maintained by the Federal Bureau of Investigation;

[(2)**] (5)** "Patient or resident", a person who by reason of **[**aging**] age**, 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)**] (6)** "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**] a person who:**

(a) Has or may have unsupervised access to children, the elderly, or persons with disabilities; and

(b) Is employed by or seeks employment with a qualified entity; or

(c) Volunteers or seeks to volunteer with a qualified entity; or

(d) Owns or operates a qualified entity;

(7) "Qualified entity", a person, business, or organization, whether public or private, for profit, not-for-profit, or voluntary, that provides care, placement, or educational services for children, the elderly, or persons with disabilities as patients or residents, including a business or organization that licenses or certifies others to provide care or placement services;

[(5)**] (8)** "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.**]**

2. A qualified entity may obtain a Missouri criminal record review of a provider from the highway patrol by furnishing information on forms and in the manner approved by the highway patrol.

3. A qualified entity may request a Missouri criminal record review and a national criminal record review of a provider through an authorized state agency. No authorized state agency is required by this section to process Missouri or national criminal record reviews for a qualified entity, however, if an authorized state agency agrees to process Missouri and national criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized state agency on forms and in a manner approved by the highway patrol the following:

(1) Two sets of fingerprints of the provider;

(2) A statement signed by the provider which contains:

(a) The provider's name, address, and date of birth;

(b) Whether the provider has been convicted of or has pled guilty to a crime which includes a suspended imposition of sentence;

(c) If the provider has been convicted of or has pled guilty to a crime, a description of the crime, and the particulars of the conviction or plea;

(d) The authority of the qualified entity to check the provider's criminal history;

(e) The right of the provider to review the report received by the qualified entity; and

(f) The right of the provider to challenge the accuracy of the report. If the challenge is to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

4. The authorized state agency shall forward the required forms and fees to the highway patrol. The results of the record review shall be forwarded to the authorized state agency who will notify the qualified entity. The authorized state agency may assess a fee to the qualified entity to cover the cost of handling the criminal record review and may establish an account solely for the collection and dissemination of fees associated with the criminal record reviews.

5. Any information received by an authorized state agency or a qualified entity pursuant to the provisions of this section shall be used solely for internal purposes in determining the suitability of a provider. The dissemination of criminal history information from the Federal Bureau of Investigation beyond the authorized state agency or related governmental entity is prohibited. All criminal record check information shall

be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

6. The highway patrol shall make available or approve the necessary forms, procedures, and agreements necessary to implement the provisions of this section.

43.542. APPROVAL OF NATIONAL CRIME PREVENTION AND PRIVACY COMPACT — EXECUTION OF COMPACT. — In order to facilitate the authorized interstate exchange of criminal history information for noncriminal justice purposes to adopt the National Crime Prevention and Privacy Compact, 42 U.S.C. 14616, the legislature approves and adopts the compact. The chief administrator of the state's criminal history records repository shall execute the compact on behalf of the state of Missouri.

43.543. CERTAIN AGENCIES TO SUBMIT FINGERPRINTS, USE OF FINGERPRINTS FOR BACKGROUND SEARCH — PROCEDURE FOR SUBMISSION. — Any state agency listed in section 621.045, RSMo, **[**or any state agency which provides programs, care or treatment for or which exercises supervision over minors shall submit two sets of fingerprints for any person seeking employment with such agency or provider or for any person who is seeking the issuance or renewal of a license, permit or certificate of registration or authority from such agency, for the purpose of checking the person's prior criminal history when the state agency determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual.**]** **the division of professional registration of the department of economic development, the department of social services, the supreme court of Missouri, the department of elementary and secondary education, the Missouri lottery, and the Missouri gaming commission, which screen persons seeking employment with such agencies or issuance or renewal of a license, permit, certificate, or registration of authority from such agencies; or any state agency or committee which is authorized by state statute or executive order to screen applicants or candidates seeking or considered for employment, assignment, or appointment to a position within state government; or the Missouri peace officers standards and training, POST, commission which screens persons, not employed by a criminal justice agency, who seek enrollment or access into a certified POST training academy police school, or persons seeking a permit to purchase or possess a firearm for employment as a watchman, security personnel, or private investigator; or law enforcement agencies which screen persons seeking issuance or renewal of a license, permit, certificate, or registration to purchase or possess a firearm shall submit two sets of fingerprints to the Missouri state highway patrol, Missouri criminal records repository, for the purpose of checking the person's criminal history. The first set of fingerprints shall be used to search the Missouri criminal records repository and the second set shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files if necessary. The fingerprints shall be submitted on forms and in the manner prescribed by the Missouri state highway patrol. Fees assessed for the searches shall be paid by the applicant or in the manner prescribed by the Missouri state highway patrol.** Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state agency making the record request.

43.650. INTERNET SITE TO BE MAINTAINED, REGISTERED SEX OFFENDER SEARCH — CONFIDENTIALITY, RELEASE OF INFORMATION, WHEN. — 1. The patrol shall, subject to

appropriation, maintain a web page on the Internet which shall be open to the public and shall include a registered sexual offender search capability.

2. The registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in subdivisions (1) to (4) of subsection 4 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425, RSMo, except that only persons who have been convicted of, found guilty of or plead guilty to committing or attempting to commit sexual offenses shall be included on this web site.

3. The registered sexual offender search shall include the capability to search for sexual offenders by name, zip code, and by typing in an address and specifying a search within a certain number of miles radius from that address.

4. Only the information listed in subdivisions (1) to (4) of this subsection shall be provided to the public in the registered sexual offender search:

(1) The name of the offender;

(2) The last known address of the offender, including the street address, city, county, state, and zip code;

(3) A photograph of the offender; and

(4) The crime or crimes for which the offender was convicted that caused him or her to have to register.

195.505. FORMATION OF GROUP — POWER OF ARREST — COOPERATION. — 1. Any two or more political subdivisions or the state highway patrol and any one or more political subdivisions may by order or ordinance agree to cooperate with one another in the formation of a multijurisdictional enforcement group for the purpose of intensive professional investigation of **computer, internet-based,** narcotics and drug law violations.

2. The power of arrest of any peace officer who is duly authorized as a member of a MEG unit shall only be exercised during the time such peace officer is an active member of a MEG unit and only within the scope of the investigation on which the MEG unit is working. Notwithstanding other provisions of law to the contrary, such MEG officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of the municipality in which the arrest is to take place or the sheriff of the county if the arrest is to be made in his venue. If exigent circumstances exist, such arrest may be made; however, notification shall be made to the chief of police or sheriff, as appropriate, as soon as practical. The chief of police or sheriff may elect to work with the MEG unit at his option when such MEG is operating within the jurisdiction of such chief of police or sheriff.

210.903. FAMILY CARE SAFETY REGISTRY AND ACCESS LINE ESTABLISHED, CONTENTS. — 1. To protect children, the elderly, and disabled individuals in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health and senior services a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers', elder-care workers', and personal-care workers' background and on child-care, elder-care and personal-care providers through:

(1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;

(2) Probable cause findings of abuse and neglect pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;

(3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, the department of mental health's employee disqualification registry;

(5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to section 210.496;

(6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259; **[**and**]**

(7) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo**; and**

(8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement system (MULES) for sexual offender registrations pursuant to section 589.400, RSMo.

210.909. DEPARTMENT DUTIES — INFORMATION INCLUDED IN REGISTRY, WHEN — REGISTRANT NOTIFICATION. — 1. Upon submission of a completed registration form by a child-care worker, elder-care worker or personal-care attendant, the department shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

(2) Determine if the applicant has been refused licensure or has experienced involuntary licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;

(5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any **[**conviction, plea of guilty or nolo contendere, or a suspended execution of sentence to a charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568, 569, 573, 575 and 578, RSMo**] criminal history record for a felony or misdemeanor or any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo**; and

(6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo**; and**

(7) As of January 1, 2004, determine through a request to the patrol if the applicant is a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform law enforcement system (MULES).

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any convictions, employee disqualification listings, registry listings, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

210.922. USE OF REGISTRY INFORMATION BY CERTAIN DEPARTMENTS, WHEN. — The department **of health and senior services, department of mental health, and department of social services** may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters 190, 195, 197, 198**, 630,** and 660, RSMo.

221.320. BOARD OF VISITORS — APPOINTMENT — TERMS. — In each county of the state the presiding judge of the circuit court, or such other judge or judges as may be determined by local circuit court rule, may, **[**and**]** upon the petition of fifteen reputable citizens **[**shall**] or upon**

the motion of a majority of the court en banc, appoint six persons, three of whom shall be women, and not more than three shall have the same political affiliations, who shall constitute a board of county visitors, **[**two**]** **all** of whom, **[**as indicated by the appointing judge,**]** upon the fixed appointment, shall serve for one year**[**, two for two years and two for three years, and upon the expiration of the term of each, his or her place and that of his or her successor shall, in like manner, be filled for the term of three years, who**]** **and** shall constitute **[**a**]** **the** board of visitors for the inspection of all corrective institutions supported by such county**[**, who shall serve without compensation**]**. **The members of the board shall serve without compensation and shall enjoy the same immunity from lawsuits as judicial officers.**

221.340. DUTIES OF BOARD. — It shall be the duty of such board of visitors, by personal visitation or otherwise, to keep themselves fully advised of the conditions and management of all corrective institutions, supported wholly or in part by county or municipal taxation, or which are under county or municipal control, and especially the county jails**[**, almshouses and municipal prisons**]**. They shall examine every department of each institution, and shall ascertain its condition as to effective and economical administration, the cleanliness, discipline and comfort of its inmates and other respects, and at least once in every three months all of said institutions shall be visited by said board or a committee of its members. In case the said board or one of its committees shall find any state of things in any institution, which in their opinion shall be injurious to the county or to the inmates of the institution, or which is contrary to good order and public policy, it shall be their duty to address a memorial to the **presiding judge, sheriff, and** county commission, or other officials having jurisdiction, in which memorial they shall set forth the facts observed and shall suggest such remedies as in their judgment may be necessary.

221.350. BOARD TO MAKE YEARLY REPORT. — The board of county visitors each year shall prepare a full report of their proceedings during the year, with such recommendations as they may deem advisable, and shall file the same with the **[**director of the division of family services of the department of social services on or before the first day of November of each year**]** **presiding judge of the circuit court, sheriff, and county commission**. Whenever the board of county visitors shall present a memorial or report to the county commission or to the judge of the circuit court, they shall, at the same time, transmit a copy of the same to the **[**director of the division of family services and they may at any time call upon him for advice and assistance in the performance of their duties. The director of the division of family services shall furnish each board of county visitors with such stationery, blanks and postage stamps as said board of county visitors may need to make the report prescribed by this section to the division of family services**]** **sheriff of the county**.

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, 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, 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 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 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 August 28, **[**2002**]** **2003**. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town **[**or**],** village**, or campus** law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town **[**or**],** village**, or campus** law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

589.407. REGISTRATION, REQUIRED INFORMATION. — Any registration pursuant to sections 589.400 to 589.425 shall consist of completion of an offender registration form developed by the Missouri state highway patrol. Such form shall include, but is not limited to the following:

(1) A statement in writing signed by the person, giving the name, address, Social Security number and phone number of the person, the place of employment of such person, **enrollment within any institutions of higher education,** the crime which requires registration, whether the person was sentenced as a persistent or predatory offender pursuant to section 558.018, RSMo, the date, place, and a brief description of such crime, the date and place of the conviction or plea regarding such crime, the age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to section 589.040, if applicable; and

(2) The fingerprints and a photograph of the person.

589.414. REGISTRANT'S DUTIES ON CHANGE OF ADDRESS — TIME LIMITATIONS FOR CERTAIN NOTIFICATIONS. — 1. If any person required by sections 589.400 to 589.425 to register changes residence or address within the same county as such person's previous address, the person shall inform the chief law enforcement official in writing within ten days of such new address and phone number, if the phone number is also changed.

2. If any person required by sections 589.400 to 589.425 to register changes such person's residence or address to a different county, the person shall appear in person and shall inform both the chief law enforcement official with whom the person last registered and the chief law

enforcement official of the county having jurisdiction over the new residence or address in writing within ten days, of such new address and phone number, if the phone number is also changed. If any person required by sections 589.400 to 589.425 to register changes their state of residence, the person shall appear in person and shall inform both the chief law enforcement official with whom the person was last registered and the chief law enforcement official of the area in the new state having jurisdiction over the new residence or address within ten days of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county where the person was previously registered shall promptly inform the Missouri state highway patrol of the change. When the registrant is changing the residence to a new state, the Missouri state highway patrol shall promptly inform the responsible official in the new state of residence.

3. **Any person required by sections 589.400 to 589.425 to register who changes his or her enrollment or employment status with any institution of higher education within the state, by either beginning or ending such enrollment or employment, shall inform the chief law enforcement officer of such change within seven days after such change is made.**

4. Any person required by sections 589.400 to 589.425 to register who officially changes such person's name shall inform the chief law enforcement officer of such name change within seven days after such change is made.

[4.**]** **5.** In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall report in person to the county law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

(1) Any offender registered as a predatory or persistent sexual offender under the definitions found in section 558.018, RSMo;

(2) Any offender who is registered for a crime where the victim was less than eighteen years of age at the time of the offense; and

(3) Any offender who has pled guilty or been found guilty pursuant to section 589.425 of failing to register or submitting false information when registering.

[5.**]** **6.** In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report annually in person in the month of their birth to the county law enforcement agency to verify the information contained in their statement made pursuant to section 589.407.

[6.**]** **7.** In addition to the requirements of subsections 1 and 2 of this section, all Missouri registrants who work or attend school or training on a full-time or part-time basis in any other state shall be required to report in person to the chief law enforcement officer in the area of the state where they work or attend school or training and register in that state. Part-time in this subsection means for more than fourteen days in any twelve-month period.

610.120. RECORDS TO BE CONFIDENTIAL — ACCESSIBLE TO WHOM, PURPOSES. — 1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507, RSMo. **[**They shall be available to**]** **The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to section 43.500, RSMo, criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by section 43.543, RSMo, to submit and when submitting fingerprints to the central repository;** the sentencing advisory commission created in section 558.019, RSMo, for the purpose of studying sentencing practices**[**, and only to courts, law enforcement agencies, child care agencies,**]** **in accordance with section 43.507, RSMo; to qualified entities for the purpose of screening providers defined in section 43.540, RSMo; the** department of revenue for **[**driving record purposes, facilities as defined in section 198.006, RSMo, in-home services

provider agencies as defined in section 660.250, RSMo,**] driver license administration;** the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo, **department of health and senior services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies** and federal agencies for purposes of **[**prosecution, sentencing, parole consideration,**] criminal justice administration,** criminal justice employment, child**, elderly, or disabled** care **[**employment, nursing home employment**],** and **[**to federal agencies**]** for such investigative purposes as authorized by law or presidential executive order.

2. These records shall be made available **only** for the **[**above**]** purposes **[**regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes.**] and to the entities listed in this section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with section 43.509, RSMo.** All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

[2. As used in this section, the term "child care" includes providers and youth services agencies as those terms are defined in section 43.540, RSMo, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.**]**

610.123. PROCEDURE TO EXPUNGE, SUPREME COURT TO PROMULGATE RULES — SIMILAR TO SMALL CLAIMS. — 1. Any person who wishes to have a record of arrest expunged pursuant to section 610.122 may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection 4 of this section. The petition shall include the following information or shall be dismissed if the information is not given:

(1) The petitioner's:

(a) Full name;

(b) Sex;

(c) Race;

(d) Date of birth;

(e) Driver's license number;

(f) Social Security number; and

(g) Address at the time of the arrest;

(2) The offense charged against the petitioner;

(3) The date the petitioner was arrested;

(4) The name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;

(5) The name of the agency that arrested the petitioner;

(6) The case number and court of the offense**;**

(7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition to expunge a record that will be forwarded to the central repository for the sole purpose of positively identifying the petitioner.

2. The petition shall name as defendants all law enforcement agencies, courts, prosecuting attorneys, central state depositories of criminal records or others who the petitioner has reason

to believe may possess the records subject to expungement. The court's order shall not affect any person or entity not named as a defendant in the action.

3. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition.

4. If the court finds that the petitioner is entitled to expungement of any record that is the subject of the petition, it shall enter an order directing expungement. A copy of the order shall be provided to each agency identified in the petition pursuant to subsection 2 of this section.

5. The supreme court shall promulgate rules establishing procedures for the handling of cases filed pursuant to the provisions of this section and section 610.122. Such procedures shall be similar to the procedures established in chapter 482, RSMo, for the handling of small claims.

630.170. DISQUALIFICATION FOR EMPLOYMENT BECAUSE OF CONVICTION — APPEAL PROCESS — CRIMINAL RECORD REVIEW, PROCEDURE — REGISTRY MAINTAINED, WHEN. — 1. A person **who is listed on the department of mental health disqualification registry pursuant to this section, who is listed on the department of social services or the department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, or who has been** convicted of **or pled guilty or nolo contendere to** any crime pursuant to section 630.155 or 630.160 shall be disqualified from holding any position in any public or private facility or day program operated, funded or licensed by the department or in any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632, RSMo.

2. A person **who has been** convicted of **or pled guilty or nolo contendere to** any felony offense against persons as defined in chapter 565, RSMo; **[**of**]** any felony sexual offense as defined in chapter 566, RSMo; **[**of**]** any felony offense defined in section **568.020,** 568.045, 568.050, 568.060, 569.020, **569.025,** 569.030, **569.035,** 569.040 **[**or**],** 569.050, **569.070, or 569.160,** RSMo, or of an equivalent felony offense**, or who has been convicted of or pled guilty or nolo contendere to any violation of subsection 3 of section 198.070, RSMo,** shall be disqualified from holding any direct-care position in any public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

3. **A person who has received a suspended imposition of sentence or a suspended execution of sentence following a plea of guilty to any of the disqualifying crimes listed in subsection 1 or 2 of this section shall remain disqualified.**

4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section may **[**appeal**] seek an exception to** the disqualification **[**to**] from** the director of the department or the director's designee. The request shall be written and may not be made more than once every twelve months. The request may be granted by the director or designee if in the judgment of the director or designee a clear showing has been made by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client of a facility, program or service. The director or designee may grant **[**the appeal**] an exception** subject to any conditions deemed appropriate and failure to comply with such terms may result in the person again being disqualified. Decisions by the director or designee pursuant to the provisions of this subsection shall not be subject to appeal. The right to **[**appeal**] request an exception** pursuant to this subsection shall not apply to persons **[**convicted of**] who are disqualified due to being listed on the department of social services or department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, nor to persons disqualified from employment due to** any crime pursuant to the provisions of chapter 566 **[**or 568**]**, RSMo, or section 565.020 **[**or**],** 565.021, **568.020, 568.060, 569.025, or 569.070,** RSMo.

5. An applicant for a direct care position in any public or private facility, day program, residential facility, or specialized service operated, funded, or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, shall:

(1) Sign a consent form as required by section 43.540, RSMo, to provide written consent for a criminal record review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any suspended imposition of sentence, any suspended execution of sentence, or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315, RSMo, or the department of mental health disqualification registry as provided for in this section.

6. Any person who has received a good cause waiver issued by the division of senior services or its predecessor under subsection 9 of section 660.317, RSMo, shall not require an additional exception under this section in order to be employed in a long-term care facility licensed under chapter 198, RSMo.

7. Any public or private residential facility, day program, or specialized service licensed, certified, or funded by the department shall, not later than two working days after hiring any person for a full-time, part-time, or temporary position that will have contact with clients, residents, or patients:

(1) Request a criminal background check as provided in section 43.540, RSMo;

(2) Make an inquiry to the department of social services and department of health and senior services to determine whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo; and

(3) Make an inquiry to the department of mental health to determine whether the person is listed on the disqualification registry as provided in this section.

8. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider hires a person to hold a direct care position knowing that such person has been disqualified pursuant to the provisions of subsection 1 or 2 of this section.

[4.**]** **9.** The department may maintain a disqualification registry and place on the registry the names of any persons who have been finally determined by the department to be disqualified pursuant to this section, or who have had administrative substantiations made against them for abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from holding any position in any public or private facility or day program operated, funded or licensed by the department, or any mental health facility or mental health program in which persons are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

[43.521. JUVENILES NOT TO BE FINGERPRINTED, EXCEPTION. — Sections 43.500 to 43.530 shall not require fingerprinting of juvenile offenders or reporting of information pertaining to a proceeding pursuant to the Missouri juvenile code, except in those cases where a juvenile is certified to the circuit court to stand trial as an adult.**]**

[210.937. TERMINATION DATE OF SAFETY REGISTRATION AND ACCESS LINE. — The provisions of sections 210.900 to 210.936 shall terminate on January 1, 2004.**]**

[210.937. TERMINATION DATE OF SAFETY REGISTRATION AND ACCESS LINE. — The provisions of sections 210.900 to 210.936 shall terminate on January 1, 2004.**]**

Approved July 11, 2003

SB 186 [CCS HCS SB 186]

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

Removes ability of Marion County Circuit Court to appoint Div. I circuit clerk if office is separated from recorder.

AN ACT to repeal sections 59.041, 59.042, and 483.015, RSMo, and to enact in lieu thereof three new sections relating to recorders of deeds and other county offices.

SECTION

A. Enacting clause.
59.041. Separation of offices of circuit clerk and recorder of deeds (certain second class counties) — office to be placed on ballot, when.
59.042. Vote required to separate offices of circuit court clerk and recorder of deeds, when.
483.015. Election — term of office — commission exceptions, Jackson County court administrator to be clerk, St. Louis County circuit clerk, how selected — circuit clerk of sixth and seventh judicial circuits, how selected.

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

SECTION A. ENACTING CLAUSE. — Sections 59.041, 59.042, and 483.015, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 59.041, 59.042, and 483.015, to read as follows:

59.041. SEPARATION OF OFFICES OF CIRCUIT CLERK AND RECORDER OF DEEDS (CERTAIN SECOND CLASS COUNTIES) — OFFICE TO BE PLACED ON BALLOT, WHEN. — 1. Notwithstanding the provisions of this chapter or chapter 478, RSMo, or any other provision of law in conflict with the provisions of this section, in any county which becomes a county of the second class after September 28, 1987, and wherein the offices of circuit clerk and recorder of deeds are combined, such combination shall continue until the governing body of the county authorizes the separation of the offices as provided in section 59.042.

2. **[**Notwithstanding the provisions of this chapter or chapter 478, RSMo, or any other provision of law in conflict with the provisions of this section, in any county of the third classification without a township form of government and having a population of more than twenty-seven thousand six hundred but less than twenty-eight thousand six hundred and wherein the offices of the district I circuit clerk and recorder of deeds are combined, the circuit court shall appoint such circuit clerk ex officio recorder of deeds. The circuit court may recommend to the governing body of such county whether the combined offices of the district I circuit clerk and recorder of deeds should be separated pursuant to subsection 1 of section 59.042; provided however, that if the governing body of such county authorizes the separation of offices and notwithstanding the provisions of subsection 2 of section 59.042, the office of district I clerk of the circuit court shall remain appointed by the circuit court.**] Each county in which the circuit clerk ex officio recorder of deeds was appointed to office before August 28, 2003, shall place the office on the ballot at the general election in November 2006, and the person elected at the general election shall be the circuit clerk ex officio recorder of deeds of the county until a successor is elected and qualified pursuant to section 483.015, RSMo. The person in such office on August 28, 2003, shall continue to hold office until a successor is elected and qualified pursuant to this subsection unless sooner removed. In the event that the county separates the offices of circuit clerk and recorder of deeds before the general election in November 2006, the person in office at the time of the separation shall continue to perform the duties of the offices until a successor is elected and qualified for each office**

pursuant to this section, section 59.020, and section 483.015, RSMo, unless sooner removed.

59.042. VOTE REQUIRED TO SEPARATE OFFICES OF CIRCUIT COURT CLERK AND RECORDER OF DEEDS, WHEN. — In any county where the offices of clerk of the circuit court and the recorder of deeds are combined, the governing body of said county, by public vote, may authorize the separation of the two offices. **In all counties where the offices are separated after August 28, 2003, the qualified voters shall elect a separate recorder of deeds at the next general election.** Thereafter, the recorder of deeds shall be elected pursuant to section 59.020.

483.015. ELECTION — TERM OF OFFICE — COMMISSION EXCEPTIONS, JACKSON COUNTY COURT ADMINISTRATOR TO BE CLERK, ST. LOUIS COUNTY CIRCUIT CLERK, HOW SELECTED — CIRCUIT CLERK OF SIXTH AND SEVENTH JUDICIAL CIRCUITS, HOW SELECTED. — 1. At the general election in the year 1982, and every four years thereafter, except as herein provided and except as otherwise provided by law, circuit clerks shall be elected by the qualified voters of each county and of the city of St. Louis, who shall be commissioned by the governor, and shall enter upon the discharge of their duties on the first day in January next ensuing their election, and shall hold their offices for the term of four years, and until their successors shall be duly elected and qualified, unless sooner removed from office.

2. The court administrator for Jackson County provided by the charter of Jackson County shall be selected as provided in the county charter and shall exercise all of the powers and duties of the circuit clerk of Jackson County. The director of judicial administration and the circuit clerk of St. Louis County shall be selected as provided in the charter of St. Louis County.

3. When provision is made in a county charter for the appointment of a court administrator to perform the duties of a circuit clerk or for the appointment of a circuit clerk, such provisions shall prevail over the provisions of this chapter providing for a circuit clerk to be elected. The persons appointed to fill any such appointive positions shall be paid by the counties as provided by the county charter or ordinance; provided, however, that if provision is now or hereafter made by law for the salaries of circuit clerks to be paid by the state, the state shall pay over to the county a sum which is equivalent to the salary that would be payable by law by the state to an elected circuit clerk in such county if such charter provision was not in effect. The sum shall be paid in semimonthly or monthly installments, as designated by the commissioner of administration.

4. The circuit clerk in the sixth judicial circuit and in the seventh judicial circuit shall be appointed by a majority of the circuit judges and associate circuit judges of the circuit court, en banc. The circuit clerk in those circuits shall be removable for cause by a majority of the circuit judges and associate circuit judges of such circuit, en banc, in accordance with supreme court administrative rules governing court personnel. This subsection shall become effective on January 1, 2004, and the elected circuit clerks in those circuits in office at that time shall continue to hold such office for the remainder of their elected terms as if they had been appointed pursuant to the terms of this subsection.

Approved July 11, 2003

SB 194 [SCS SB 194 & 189]

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

Allows Indian tribes to be considered employers.

AN ACT to amend chapter 288, RSMo, by adding thereto one new section relating to unemployment reimbursement for Indian tribes in compliance with federal mandate, with an emergency clause.

SECTION

A. Enacting clause.
288.037. Indian tribes considered employers for purposes of unemployment compensation payments, when — definitions — requirements.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 288, RSMo, is amended by adding thereto one new section, to be known as section 288.037, to read as follows:

288.037. INDIAN TRIBES CONSIDERED EMPLOYERS FOR PURPOSES OF UNEMPLOYMENT COMPENSATION PAYMENTS, WHEN — DEFINITIONS — REQUIREMENTS. — 1. The term "employer" shall include any Indian tribe for which service in employment as defined in section 288.034 is performed.

2. The term "employment" shall include service performed in the employ of an Indian tribe, as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA), provided such service is excluded from "employment" as defined in FUTA solely by reason of Section 3306(c)(7), FUTA, and is not otherwise excluded from "employment" under this chapter. For purposes of this section, the exclusions from employment in subsection 9 of section 288.034 shall be applicable to services performed in the employ of an Indian tribe.

3. Benefits based on service in employment defined in this section shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter. The provisions of subsection 3 of section 288.040 pertaining to services performed at an educational institution while in the employ of an "educational service agency" shall apply to services performed in an educational institution or educational service agency wholly owned and operated by an Indian tribe or tribal unit.

4. (1) Indian tribes or tribal units, including subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to this chapter shall pay contributions under the same terms and conditions as all other subject employers, unless they elect to pay into the state unemployment fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe. An Indian tribe and all tribal units of such Indian tribe shall be jointly and severally liable for any and all contributions, payments in lieu of contributions, interest, penalties, and surcharges owed by the Indian tribe and all tribal units of such Indian tribe.

(2) Indian tribes electing to make payments in lieu of contributions must make such election in the same manner and under the same conditions as provided in subsection 3 of section 288.090 pertaining to state and local governments and nonprofit organizations subject to this chapter. Indian tribes will determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units. Termination of an Indian tribe's coverage pursuant to subdivision (5) of this subsection shall terminate the election of such Indian tribe and any tribal units of such Indian tribe to make payments in lieu of contributions.

(3) Indian tribes or tribal units will be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(4) Any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions shall be required, prior to the effective date of its election, to post with the division a surety bond issued by a corporate surety authorized to do business in Missouri in an amount equivalent to the contributions or payments in lieu of contributions for which the Indian tribe or tribal unit was liable in the last calendar year in which it accrued contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever amount is the greater, to ensure prompt payment of contributions or payments in lieu of contributions, interest, penalties, and surcharges for which the Indian tribe or tribal unit may be, or becomes, jointly and severally liable pursuant to this chapter.

(5) Failure of the Indian tribe or tribal unit to maintain the required surety bond, including the posting of an additional surety bond or a replacement surety bond within ninety days of being directed by the division, will cause services performed for such Indian tribe to not be treated as "employment" for purposes of subsection 2 of this section.

(6) The director may determine that any Indian tribe that loses coverage under subdivision (5) of this subsection, may have services performed for such tribe again included as "employment" for purposes of subsection 2 of this section if all contributions, payments in lieu of contributions, penalties, surcharges, and interest have been paid. Upon reinstatement of coverage under this subdivision, an Indian tribe or any tribal unit may elect, in accordance with the provisions of this subsection, to make payments in lieu of contributions.

(7) If an Indian tribe fails to maintain the required surety bond by posting an additional surety bond or a replacement surety bond within ninety days of being directed by the division, the director will immediately notify the United States Internal Revenue Service and the United States Department of Labor.

(8) Notices of surety bond deficiency to Indian tribes or their tribal units shall include information that failure to post an additional surety bond or a replacement surety bond within the prescribed time frame:

(a) Will cause the Indian tribe to be liable for taxes under FUTA;

(b) Will cause the Indian tribe to be excepted from the definition of "employer", as provided in subsection 1 of this section, and services in the employ of the Indian tribe, as provided in subsection 2 of this section, to be excepted from "employment".

5. (1) Failure of the Indian tribe or tribal unit to make required payments, including assessments of interest and penalty, within ninety days of receipt of the bill will cause services performed for such Indian tribe to not be treated as "employment" for purposes of subsection 2 of this section.

(2) The director may determine that any Indian tribe that loses coverage under subdivision (1) of this subsection, may have services performed for such tribe again included as "employment" for purposes of subsection 2 of this section if all contributions, payments in lieu of contributions, penalties, surcharges, and interest have been paid.

(3) If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within ninety days of a final notice of delinquency, the director will immediately notify the United States Internal Revenue Service and the United States Department of Labor.

6. Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed time frame:

(1) Will cause the Indian tribe to be liable for taxes under FUTA;

(2) Will cause the Indian tribe to be excepted from the definition of "employer", as provided in subsection 1 of this section, and services in the employ of the Indian tribe, as provided in subsection 2 of this section, to be excepted from "employment".

7. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

SECTION B. EMERGENCY CLAUSE. — Because the state is out of compliance with a federal mandate and such noncompliance may subject the state and employers within the state to forfeiture of millions of dollars of tax credits and grants, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 8, 2003

SB 202 [SCS SB 202]

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

Requires access to water supply for fire protection entities during emergencies.

AN ACT to amend chapter 320, RSMo, by adding thereto one new section relating to access of fire protection entities to a water supply.

SECTION

A. Enacting clause.

320.095. Water supply, access during emergencies for fire protection services, requirements — liability for damages.

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

SECTION A. ENACTING CLAUSE. — Chapter 320, RSMo, is amended by adding thereto one new section, to be known as section 320.095, to read as follows:

320.095. WATER SUPPLY, ACCESS DURING EMERGENCIES FOR FIRE PROTECTION SERVICES, REQUIREMENTS — LIABILITY FOR DAMAGES. — 1. Notwithstanding any other provision of law to the contrary, any water corporation, municipality, or public water supply district established pursuant to chapter 247, RSMo, shall allow access to its supply of water for filling mobile equipment during an emergency involving the protection of life or property to a fire protection district, city fire department, or any other entity providing fire protection services, regardless of any non-payment of fees to the water corporation, municipality, or public water supply district.

2. Nothing in this section shall authorize the connection of pumping equipment to water lines without authorization from the governing body of the affected water supply.

3. In no circumstance shall a hard suction connection be utilized in obtaining water from a water source.

4. A fire protection service shall notify any source of water utilized pursuant to this section of the estimated amount of water utilized during such emergency, on or before the fifteenth day of the following month for purposes of accountability of unaccounted for water.

5. Under no circumstance shall any entity be authorized to deplete a water supply to a pressure less than the minimum pounds per square inch as required by law or regulation.

6. Any entity which contemplates using water for emergency services pursuant to this section shall provide its personnel with adequate training on the basics of water system supply and proper maintenance and operation of valves and hydrants.

7. The entity providing fire protection shall be liable for any damages caused by it to any part of the water supply system from which water is taken.

Approved July 9, 2003

SB 207 [SB 207]

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 regarding damage claims by rental companies for rental motor vehicles.

AN ACT to repeal section 407.735, RSMo, and to enact in lieu thereof one new section relating to rental vehicle damage claims.

SECTION

A. Enacting clause.

407.735. Business practices, nondeceptive — collision damage waiver, terms, conditions, notice required — damages, estimates, how made.

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

SECTION A. ENACTING CLAUSE. — Section 407.735, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.735, to read as follows:

407.735. BUSINESS PRACTICES, NONDECEPTIVE — COLLISION DAMAGE WAIVER, TERMS, CONDITIONS, NOTICE REQUIRED — DAMAGES, ESTIMATES, HOW MADE. — 1. Any business practices utilized by car rental companies in furtherance of their business of renting vehicles to the public shall be nondeceptive, fair and shall not be unconscionable.

2. Any collision damage waiver product offered for sale to the public shall not contain any provisions that are deceptive, unfair or unconscionable. It is deceptive, unfair, and unconscionable to require a consumer to assume absolute liability for damage or loss up to the total value of a rental vehicle regardless of fault as a condition of the rental agreement, and then not include as part of any collision damage waiver product, a waiver of liability for any damage or loss which occurs as a result of the consumer's ordinary negligence, except where:

(1) The damage is caused intentionally by an authorized driver or as a result of his willful and wanton misconduct;

(2) The damage arises out of the authorized driver's operation of the vehicle while intoxicated or under the influence of any illegal or unauthorized drug;

(3) The rental transaction is based on fraudulent information supplied by the renter;

(4) The damage arises out of the use of the vehicle while committing or otherwise engaged in a criminal act in which the automobile usage is substantially related to the nature of the criminal activity;

(5) The damage arises out of the use of the vehicle to carry persons or property for hire;

(6) The damage occurs while the vehicle is operated by a person other than an authorized driver. For the purposes of this subsection, "authorized driver" means the person to whom the vehicle is rented; the renter's spouse or other family members who are licensed drivers and satisfy the rental company's minimum age requirement; the renter's employer or co-worker if they are engaged in business activity with the person to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's minimum age requirement; any person who operates the vehicle during an emergency situation or while parking the vehicle at a commercial establishment; and any person expressly listed by the rental company on the rental agreement as an authorized driver;

(7) The damage arises out of the use of the vehicle outside of the United States unless such use is specifically authorized by the rental agreement;

(8) Towing or pushing anything or if operation of the vehicle on an unpaved road has resulted in damage or loss which is a direct result of the road or driving conditions.

(9) Loss due to the theft of the rental vehicle. However, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

3. Any claim resulting from **[**physical**]** damage to or loss of a rental vehicle **[**exceeding five hundred dollars**]** **shall be reasonably and rationally related to the actual loss incurred. The rental company shall not assert or collect any claim for physical or mechanical damage to or loss of a rental vehicle which exceeds: the actual cash value of the vehicle immediately before the loss less any proceeds from the vehicle's disposal after the loss, or the actual cost to repair the damaged vehicle including all discounts or price reductions, whichever is less. Such claim** shall be based on an estimate of damage **or repair invoice** made by an independent appraisal company **[**or by**],** an insurance company**, or a repair facility that completed or would complete the repairs**. A rental company's charge for loss of use shall not exceed a reasonable estimate of the actual income lost.

4. It is a deceptive and unfair practice for a car rental company or employee to misrepresent any element of a rental agreement transaction or to fail to disclose to consumers all material facts and restrictions applicable to the rental of a vehicle or in the sale of optional products or services. The company shall disclose the extent of the consumer's liability for the vehicle and the price for collision damage waiver and applicable mileage limitations and charges. No car rental company shall sell or offer to sell a consumer a collision damage waiver product as a part of the rental agreement unless the car rental company first provides the consumer with the following written notice:

NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE VEHICLE. BEFORE YOU DECIDE WHETHER TO PURCHASE THE COLLISION DAMAGE WAIVER PRODUCT, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN VEHICLE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER PRODUCT IS NOT MANDATORY AND MAY BE DECLINED.

Such notice shall be made on the face of the rental agreement as part of the written contract, shall be set apart in bold-face type and in no smaller print than 10-point type, and shall include a space for the consumer to acknowledge his receipt of this notice.

5. Car rental companies shall not place a hold against a consumer's credit limit or charge a consumer's credit card in a deceptive or unfair manner, and without full and complete disclosure of such practice.

Approved July 11, 2003

SB 212 [HCS SCS SB 212 & 220]

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

Modifies provisions for highway patrol salary schedules and the Kansas City police retirement system.

AN ACT to repeal sections 43.080, 86.370, 86.393, 86.398, 86.407, 86.447, 86.600, 86.671, 86.690, 86.720, and 86.745, RSMo, and to enact in lieu thereof eighteen new sections relating to law enforcement.

SECTION

A. Enacting clause.
43.080. Service salary increases — annual salary schedule submitted to governor and general assembly, contents — service defined.
86.370. Definitions.
86.374. Tax-exempt status of retirement plan to be maintained — assets of system to be held in trust — member benefits vested, when — distribution of benefits.
86.393. Administration vested in retirement board — members, how selected — vacancies, how filled.
86.394. Board members in active police service, leave to attend educational seminars.
86.398. Retirement board, purchase of liability insurance, indemnification of member, how — payment of legal expenses, when.
86.407. Board to establish rules and regulations — officers and employees.
86.434. Lump-sum option plan distribution of benefits, election procedure — void, when.
86.445. Incentives for early retirement, authority to administer and pay.
86.447. Pensions of dependents of deceased retired members — funeral benefit — special consultant, duty, compensation.
86.600. Definitions.
86.611. Tax-exempt status of retirement plan to be maintained — assets of system to be held in trust — member benefits vested, when — distribution of benefits.
86.665. Lump-sum option plan distribution, procedure — void, when.
86.671. Offsets to workers' compensation payments — rulemaking authorized — member's percentage defined.
86.676. Incentives for early retirement, board to administer and pay.
86.690. Death of member prior to or following retirement, payments made, how — additional one thousand dollar funeral benefit paid, when.
86.720. Board to make rules — officers — employees.
86.745. Board may purchase liability insurance — indemnification in case of action, suit, or proceeding — when.

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

SECTION A. ENACTING CLAUSE. — Sections 43.080, 86.370, 86.393, 86.398, 86.407, 86.447, 86.600, 86.671, 86.690, 86.720, and 86.745, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 43.080, 86.370, 86.374, 86.393, 86.394, 86.398, 86.407, 86.434, 86.445, 86.447, 86.600, 86.611, 86.665, 86.671, 86.676, 86.690, 86.720, and 86.745, to read as follows:

43.080. SERVICE SALARY INCREASES — ANNUAL SALARY SCHEDULE SUBMITTED TO GOVERNOR AND GENERAL ASSEMBLY, CONTENTS — SERVICE DEFINED. — The superintendent is authorized and empowered to prescribe policies providing for increases **[**every five years**]** in the salaries of **[**such**]** members **[**beginning with the sixth year of service, and thereafter to fix the salaries of such members in accordance therewith, except that no such five-year increase shall exceed ten percent of the member's salary**]** **of the highway patrol**. **Each year, prior to January first, the superintendent shall submit a salary schedule report to the governor, speaker of the house of representatives, and the president pro tem of the senate. The salary schedule report prepared by the superintendent shall include, in addition to other matters deemed pertinent to the superintendent, a comparison of the salaries of police officers of the three largest police departments in the state. The governor may make additional recommendations to the report and forward them to the speaker of the house of representatives and the president pro tem of the senate. The speaker of the house of representatives and the president pro tem of the senate may assign the salary schedule report to the appropriate standing committees to review the salary comparisons to ensure that parity in the salary of members of the highway patrol and officers of the three largest police departments is maintained. The superintendent of the highway patrol shall testify before the appropriate committee on the salary schedule report if called upon by such committee.** The "service" of a member of the patrol, who has served in the armed forces of the United States and who has subsequently been reinstated as a member of the patrol within ninety days after receiving a discharge other than dishonorable from the armed forces of the United States, shall be considered service with the patrol as a member of the patrol rendered since last becoming a member prior to entrance into the armed forces of the United States; except that no member shall be entitled to any credit, privilege or benefit provided by this chapter if such member voluntarily extends or participates in an extension of the period of service, whether by reenlistment, waiver of discharge, acceptance of commission or any other action, with the armed forces beyond the period of service for which such member was originally commissioned, enlisted, inducted or called.

86.370. DEFINITIONS. — The following words and phrases as used in sections 86.370 to 86.497, unless a different meaning is plainly required by the context, shall have the following meanings, and the use of masculine gender shall include the feminine:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.370 to 86.497;

(2) "Beneficiary", any person in receipt of pension or other benefit as provided in sections 86.370 to 86.497;

(3) "Board of police commissioners", any board composed of police commissioners and any other officials or boards authorized by law to employ and manage an organized police force in the cities;

(4) "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants;

(5) "Compensation", whenever used in connection with members of the police retirement system created by sections 86.370 to 86.497, and whether used solely or as part of another defined term, the regular compensation which a member would earn during one year on the basis of the stated compensation for his rank and position, and therefore excluding any overtime pay, meal and travel expenses, uniform or other clothing allowances, any sick leave or vacation entitlements accrued from prior years, college incentive or skill incentive allowances and any other allowances available only to particular individuals and not a part of the base stated compensation for all persons holding the given rank and position; **except that, notwithstanding the foregoing, compensation for any year for any member shall not exceed the amount**

permitted to be taken into account pursuant to Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(6) "Creditable service", prior service plus membership service as provided in section 86.423;

(7) "Final compensation", the average annual compensation of a member during his service if less than two years, or the twenty-four months of his service for which he or she received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member under this subdivision, no compensation received for service which occurred after the thirtieth full year of membership service and no compensation attributable to any time a member was suspended from service without pay shall be included. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

(8) "Fiscal year", the fiscal year of the cities;

(9) **"Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;**

(10) "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(10)**]** **(11)** "Member", a member of the police retirement system as defined in section 86.380;

[(11)**]** **(12)** "Membership service", all service rendered as a policeman for compensation after June 15, 1946, excluding all probationary service of six months or less served prior to May 1, 1951;

[(12)**]** **(13)** "Pension", annual payments for life, payable monthly, beginning with the date of retirement and ending with death; if the total of such monthly payments plus benefits pursuant to section 86.447 is less than the total of the member's accumulated contributions, the excess of such accumulated contributions over the total of such monthly payments shall be paid in one sum to the beneficiary named by the member;

[(13)**]** **(14)** "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.370 to 86.497 and by the members of the police retirement system;

[(14) "Policeman"**]** **(15) "Police officer"**, entitled to membership in the police retirement system created by sections 86.370 to 86.497, is an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty and includes the chief of police, lieutenant colonels, majors, superintendents, captains, lieutenants, sergeants, corporals, detectives, patrolmen, supervisors, technicians, radio operators, radio dispatchers, jailers, and matrons, but does not include any police commissioner or members of the police reserve corps, or special officers appointed to serve at elections, or temporary police appointed at school crossings or special officers appointed to serve during emergencies, or anyone employed in a clerical or other capacity not involving police duties; except that any policeman as herein defined, who is assigned to the performance of other duties for the police departments of the cities, by reason of personal injury by accident or disability arising out of and in the course of his employment as a policeman, shall be and remain a member of the police retirement system without regard to the duties performed under such assignment; in case of dispute as to whether any person is a policeman qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

[(15)**]** **(16)** "Retirement board", the board provided in section 86.393 to administer the retirement system;

[(16)**]** **(17)** "Retirement system", the police retirement system of the cities as defined in section 86.373.

86.374. TAX-EXEMPT STATUS OF RETIREMENT PLAN TO BE MAINTAINED — ASSETS OF SYSTEM TO BE HELD IN TRUST — MEMBER BENEFITS VESTED, WHEN — DISTRIBUTION OF BENEFITS. — 1. A retirement plan pursuant to sections 86.370 to 86.497 is a qualified plan pursuant to the provisions of applicable federal law. The benefits and conditions of a retirement plan pursuant to sections 86.370 to 86.497 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer this retirement system in a manner as to retain at all times qualified status pursuant to Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of this retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such exclusive benefit or to any purpose inconsistent with sections 86.370 to 86.497.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

(1) Completion of twenty-five years of service;

(2) Age sixty if the member has completed at least ten years of creditable service;

(3) Age seventy without regard to years of service; or

(4) To the extent funded, upon the termination of the system established pursuant to sections 86.370 to 86.497 or any partial termination which affects the member or any complete discontinuance of contributions by the city to the system. Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit pursuant to sections 86.370 to 86.497 in excess of the benefit limits applicable to the fund pursuant to Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If the total benefits under this retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits pursuant to Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from this retirement system shall be reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of this retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury, and shall not exceed such other limits as may be applicable at any given time pursuant to Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in sections 86.370 to 86.497, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of the retirement system's

statute that is maintained by the retirement board and shall be treated for all purposes as a part of sections 86.370 to 86.497. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice on providing direction to the secretary of this retirement system regarding that transfer in accordance with procedures established by the retirement board.

10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan pursuant to Section 457(b) of the Internal Revenue Code which is maintained by the state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this retirement system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

86.393. ADMINISTRATION VESTED IN RETIREMENT BOARD — MEMBERS, HOW SELECTED — VACANCIES, HOW FILLED. — 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.370 to 86.497 are hereby vested in a retirement board of nine persons.

2. The board shall be constituted as follows:

(1) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection, to be selected by the board of police commissioners of such cities to serve one- and two-year terms respectively. All such subsequent members shall serve for terms of two years each or to fill an unexpired term.

(2) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection to be selected by the city council of said city, one of whom may be the director of finance of such city to act as ex officio member, and the other to serve for a term of two years.

(3) Five members shall be elected for three-year terms respectively or to fill an unexpired term, in annual elections in which each member of the police retirement system and, if such city has established a civilian employees' retirement system of the police department of such city

pursuant to the provisions of sections 86.600 to 86.790, each member of such civilian employees' retirement system shall be entitled to one vote.

3. Commencing with the first annual election for members of the retirement board **[**after August 28, 1991**] in 2004**, the five elected members of the board shall **[**include**] be designated and elected as follows**:

(1) If a city has established a civilian employees' retirement system of the police department of such city pursuant to the provisions of sections 86.600 to 86.790, the elected members of the retirement board of such city shall consist of three restricted members and two open members:

(a) **[**At least**]** One **restricted member shall be a** member of the police retirement system who has retired from active service with the police department as of the date of such member's election to the board;

(b) **[**At least**]** One **restricted member shall be a** member of the police retirement system who, as of the date of **[**his**] such member's** election to the board, is in active service as a **[**policeman**] police officer** and has not attained the rank of sergeant or higher;

(c) **[**At least**]** One **restricted member shall be a** member of the civilian employees' retirement system of the police department of such city**[**, if such city has established such a system pursuant to the provisions of sections 86.600 to 86.790**]**.

There shall be no required qualifications for open members. At the annual election in 2004 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2005 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2006 and each third year thereafter, the three restricted members shall be elected to a three-year term. Such elections shall be conducted simultaneously but as elections for three separate offices, in which only persons qualified for a respective office may be a candidate for such office;

(2) If a city has not established a civilian employees' retirement system of the police department of such city pursuant to the provisions of sections 86.600 to 86.790, the elected members of the retirement board of such city shall consist of two restricted members and three open members. All provisions of subdivision (1) of this subsection shall apply, except that the restricted membership provided for a member of a civilian employees' retirement system shall be an open membership;

(3) In every election in which more than one position is to be filled, either for a three-year term or for the unexpired portion of the term of a position which has become vacant, every candidate in such election must declare the position to which such candidate desires to be elected; and no person may be a candidate for more than one such position in any given election;

(4) **[**Whenever**]** Any person **[**is**]** elected to **a restricted position on the** retirement board who at the time of such election meets the qualifications **[**of paragraph (a), (b), or (c) of subdivision (3) of subsection 2 of this section, that person**] for such position** shall be deemed to continue to meet such qualifications**[**, and the requirements of this section with respect to paragraph (a), (b), or (c) of subdivision (3) of subsection 2 of this section, the qualifications of which are so met by such person shall continue to be satisfied,**]** throughout the term to which such person was elected, regardless of any change in the rank, classification or other employment status of such person**[**, unless such person dies, resigns as a member of such board or for any other reason ceases to serve as a member of such board.

(5) At the first annual election for members of the retirement board after August 28, 1991, there shall be elected three members to such board for three-year terms, in addition to any other election necessary to fill the unexpired portion of a term in which a vacancy has occurred. At each of the next two such annual elections, there shall be elected one member to such board for a three-year term, in addition to any other election necessary to fill the unexpired portion of a term in which a vacancy has occurred. At such annual election in each subsequent year, there shall be elected one member to such board for a three-year term for each three-year term expiring

in such year, in addition to any other election necessary to fill the unexpired portion of a term in which a vacancy has occurred**]**.

[3.**]** **4.** If a vacancy occurs in the office of a member of the retirement board the vacancy shall be filled for the unexpired term in the same manner as the vacated office was previously filled.

86.394. BOARD MEMBERS IN ACTIVE POLICE SERVICE, LEAVE TO ATTEND EDUCATIONAL SEMINARS. — Each member of the retirement board who is in active service with the police department of a city as either a police officer, as defined in section 86.370, or as an employee, as defined in section 86.600, shall be granted authorized leave with pay by such police department to attend any and all educational seminars and like functions that have been authorized by the retirement board, including travel time to and from such functions, not to exceed ten days in any calendar year. Leave granted under this section shall not reduce vacation or other authorized leave time to which such member may be entitled without reference to this section.

86.398. RETIREMENT BOARD, PURCHASE OF LIABILITY INSURANCE, INDEMNIFICATION OF MEMBER, HOW — PAYMENT OF LEGAL EXPENSES, WHEN. — 1. **The retirement board may purchase with retirement system assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of this retirement system and any trustee, member of the retirement board, officer, or employee of the retirement system for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's, board member's, officer's, or employee's capacity as a fiduciary, officer, or employee of the retirement system and for costs and expenses, including attorney fees, incurred as a trustee, board member, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for reimbursement of a trustee, board member, officer, or employee for liability imposed or expenses incurred because of the trustee's, board member's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.**

2. If the insurance coverage described in subsection 1 of this section is insufficient or is not in effect, the retirement board may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that **[**he**]** **the person** is or was a member of the retirement board, or is or was serving at the request of the retirement board in the capacity which caused **[**his**]** **the person's** relationship to such action, suit or proceeding, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by **[**him**]** **the person** in connection with such action, suit or proceeding, if **[**he**]** **the person** acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe **[**his**]** **the relevant** conduct was lawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that **[**he**]** **the person** did not have reasonable cause to believe that **[**his**]** **the relevant** conduct was lawful.

[2.**]** **3.** To the extent that a member of the retirement board has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in **[**subsection**]** **subsections** 1 **and 2** of this section, or in defense of any claim, issue or matter therein, **[**he**]** **the person** shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred **[**by him**]** in connection with the action, suit or proceeding **that are not covered by the insurance described in subsection 1 of this section**.

[3.] **4.** Any indemnification under [subsection 1 of] this section, unless ordered by a court, shall be made by the retirement board only as authorized in each specific case upon a determination that indemnification of [a member of the retirement board] **any person potentially entitled to indemnification hereunder** is proper in the circumstances because [he] **the person** has met the applicable standard of conduct set forth in this section. The determination shall be made by the retirement board by a majority vote of a quorum consisting of members of the retirement board who are not parties to the action, suit or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested members of the retirement board so directs, by independent legal counsel in a written opinion. Such legal counsel may but need not be counsel to the retirement system.

[4.] **5.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the retirement board in advance of the final disposition of the action, suit or proceeding as authorized by the retirement board in the specific case upon receipt of an undertaking by or on behalf of the [member of the retirement board] **person potentially entitled to indemnification hereunder** to repay such amount unless it shall ultimately be determined that [he] **the person** is entitled to be indemnified by the retirement board as authorized in this section.

86.407. BOARD TO ESTABLISH RULES AND REGULATIONS — OFFICERS AND EMPLOYEES. — 1. Subject to the limitations of sections 86.370 to 86.497 the retirement board shall, from time to time, establish rules and regulations for the administration of its assets, for the transaction of its business and for the conduct of nominations and elections of the elected members of the retirement board. [Whenever the board deems it necessary in order to maintain compliance with the qualification requirements of subdivision (3) of subsection 2 of section 86.393, the board may restrict nominations for one or more positions on the board to persons possessing the qualifications required under paragraph (a), (b), or (c) of subdivision (3) of subsection 2 of section 86.393.] **The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo.**

2. The retirement board shall elect from its membership, a chairman, a vice chairman and a treasurer and shall, by majority vote of its members, appoint a secretary, who may be, but need not be, one of its members. It may employ such actuarial, legal and other services as may be necessary to transact the business of the retirement system. The compensation of all persons employed by the retirement board and all other expenses of the board necessary for the operation of the retirement system shall be paid in such manner as the retirement board shall determine; provided, that the compensation of such persons as may be employed by the retirement board shall not be greater than the compensation paid for comparable abilities by the governments of the cities in which said retirement board is located.

86.434. LUMP-SUM OPTION PLAN DISTRIBUTION OF BENEFITS, ELECTION PROCEDURE — VOID, WHEN. — 1. Any member entitled to commence a pension pursuant to section 86.433 with twenty-six years or more of creditable service may elect an optional distribution under the partial lump-sum option plan provided in this section if the member:

(1) Notifies the retirement system in writing of the member's retirement date at least ninety days in advance of the member's retirement date and requests an explanation of the member's rights pursuant to this section; and

(2) Notifies the retirement system of the member's election hereunder at least thirty days in advance of the member's retirement date.

Following receipt of an initial notice of a member's retirement date and request for an explanation hereunder, the retirement system shall, at least sixty days in advance of such retirement date, provide the member a written explanation of the member's rights pursuant to this section and an estimate of the amount by which the member's regular

monthly base pension would be reduced in the event of the member's election of any of the options available to the member pursuant to this section.

2. (1) A member entitled to make an election pursuant to this section may elect to receive a lump-sum distribution with the member's initial monthly pension payment pursuant to section 86.433, subject to all the terms of this section. The member may elect the amount of the member's lump-sum distribution from one, but not more than one, of the following options for which the member qualifies:

(a) A member having twenty-six or more years of creditable service may elect a lump-sum amount equal to twelve times the initial monthly base pension the member would receive if no election were made pursuant to this section;

(b) A member having twenty-seven or more years of creditable service may elect a lump-sum amount equal to twenty-four times the initial monthly base pension the member would receive if no election were made pursuant to this section; or

(c) A member having twenty-eight or more years of creditable service may elect a lump-sum amount equal to thirty-six times the initial monthly base pension the member would receive if no election were made pursuant to this section.

(2) When a member makes an election to receive a lump-sum distribution pursuant to this section, the base pension which the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump-sum distribution, and the reduced base pension shall be the member's base pension thereafter for all purposes relating to base pension amounts pursuant to sections 86.370 to 86.497.

3. An election pursuant to this section to receive a lump-sum distribution and reduce monthly base pension shall be void if the member dies before retirement, and amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.

86.445. INCENTIVES FOR EARLY RETIREMENT, AUTHORITY TO ADMINISTER AND PAY. — If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system under sections 86.370 to 86.497, in addition to such other benefits as such members or their beneficiaries are entitled to receive under sections 86.370 to 86.497 provided such city shall so request and shall agree to increase the city's contribution under section 86.477 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contributions under section 86.470, to provide all other benefits provided under sections 86.370 to 86.497.

86.447. PENSIONS OF DEPENDENTS OF DECEASED RETIRED MEMBERS — FUNERAL BENEFIT — SPECIAL CONSULTANT, DUTY, COMPENSATION. — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatever or of the death of a member after having been retired and pensioned, there shall be paid, in addition to all other benefits but subject to subsection 7 of this section, the following:

(1) If a member dies while in service, such member's surviving spouse, if any, shall be paid a base pension equal to forty percent of the final compensation of such member, subject to subsequent adjustments, if any, as provided in section 86.441;

(2) If a member retires or terminates service after August 28, 1999, and dies after commencement of benefits pursuant to the provisions of sections 86.370 to 86.497, the member's surviving spouse, if any, shall be paid a base pension equal to eighty percent of the pension being

received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(3) If a member retired or terminated service on or before August 28, 1999, and died after August 28, 1999, and after commencement of benefits, such member's surviving spouse shall upon application to the retirement board, be appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, the surviving spouse shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be compensated in such amount as shall make the benefits received by such surviving spouse pursuant to this subsection equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(4) Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse's benefit provided pursuant to this subsection, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall not be less than six hundred dollars per month. For any member who dies, retires or terminates service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made pursuant to this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be not less than six hundred dollars monthly. A pension benefit pursuant to this subdivision shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted pursuant to section 86.441. The benefit pursuant to this subdivision shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly;

(5) Such member's child or children under the age of eighteen years at the time of the member's decease shall be paid fifty dollars per month each, subject to adjustments, if any, as provided in section 86.441, until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue to receive payments hereunder for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided. Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen;

(6) A funeral benefit of one thousand dollars.

2. For the purposes of this section, "commencement of benefits" shall begin, for any benefit, at such time as all requirements have been met entitling the member to a payment of such benefit

at the next following payment date, disregarding advance notice periods required by any paying agent for physical preparation of the payment, so that a member who dies between the date all such requirements are met and the date when the system would have delivered such member's initial payment shall be deemed to have commenced such benefit.

3. If there is no person qualified to receive a pension as a surviving spouse or if a surviving spouse dies, the total amount which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children under the age of eighteen years and the incapacitated children in equal shares. As each child attains the age of eighteen years or has such incapacity removed, the total of the surviving spouse's pension shall then be added to and divided among the remaining children, and when there is only one child under the age of eighteen years or incapacitated, whether such child is the sole surviving child of the member or the youngest child of several children, the total amount of the surviving spouse's pension shall be paid to the child until such child reaches the age of eighteen years or such incapacity is removed.

4. (1) The surviving spouse of a member who retired or died prior to August 28, 1997, shall not be entitled to receive benefits or the payment of a pension pursuant to sections 86.370 to 86.497 unless marriage to the member occurred at least two years before the member's retirement or at least two years before the death of the member while in service; provided, that no benefits shall be denied pursuant to this subsection to the surviving spouse of a member whose death occurred in the line of duty or from an occupational disease arising out of and in the course of the member's employment.

(2) No surviving spouse of a member who retired or died while in service after August 28, 1997, and before August 28, 2000, shall be entitled to receive any benefits pursuant to this section unless such spouse was married to the member at the time of the member's retirement or death while in service.

(3) Any surviving spouse who would qualify for benefits pursuant to subdivision (1) or (2) of this subsection and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.370 to 86.497 in the absence of such remarriage.

(4) No surviving spouse of a member who retires or dies in service after August 28, 2000, shall be entitled to receive any benefits pursuant to sections 86.370 to 86.497 unless such spouse was married to the member at the time of the member's retirement or death in service. Any surviving spouse who was married to such a member at the time of the member's retirement or death in service shall be entitled to all benefits for surviving spouses pursuant to sections 86.370 to 86.497 for the life of such surviving spouse without regard to remarriage.

5. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate.

6. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

7. Any beneficiary of benefits pursuant to sections **[**86.600 to 86.790**]** **86.370 to 86.497** who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

86.600. DEFINITIONS. — As used in sections 86.600 to 86.790, unless a different meaning is plainly required by the context, the following words and phrases mean:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other purpose permitted under sections 86.600 to 86.790 in all cases with interest thereon at a rate determined from time to time for such purpose by the retirement board;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of the mortality tables and interest rate as shall be adopted by the retirement board;

(3) "Appointing authority", any person or group of persons having power by law to make appointments to any position in the police departments of the cities;

(4) "Beneficiary", any person receiving a benefit from the retirement system as a result of the death of a member;

(5) "Compensation", the basic wage or salary paid an employee for any period, excluding bonuses, overtime pay, expense allowance, and other extraordinary compensation; **except that, notwithstanding the foregoing, compensation for any year for any member shall not exceed the amount permitted to be taken into account pursuant to Section 401(a)(17) of the Internal Revenue Code as applicable to such year;**

(6) "Creditable service", the period of service to which an employee, a former employee, or a member is entitled, as prescribed by sections 86.600 to 86.790;

(7) "Employee", any regularly appointed civilian employee of the police departments of the cities as specified in sections 86.600 to 86.790, who is not eligible to receive a pension from the police pension system;

(8) "Employer", the police boards of the cities as specified in sections 86.600 to 86.790;

(9) "Final compensation", the average annual compensation of a member during his or her service if less than two years, or the twenty-four months of his or her service for which he or she received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member under this subsection, no compensation attributable to any time a member was suspended from service without pay shall be included. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

(10) **"Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;**

(11) "Medical board", the board of physicians chosen by the retirement board;

[(11)**]** **(12)** "Member", any member of the retirement system as provided by sections 86.600 to 86.790;

[(12)**]** **(13)** "Normal retirement", retirement from the service of the employer on or after the normal retirement date;

[(13)**]** **(14)** "Operative date", the date this retirement system becomes operative;

[(14)**]** **(15)** "Pension", the annual payments for life which shall be payable in equal monthly installments to a member or his or her spouse;

[(15)**]** **(16)** "Retirement board", the persons appointed or elected to be members of the retirement board for civilian employees of police departments of the cities;

[(16)**]** **(17)** "Retirement system", the retirement system of the civilian employees of the cities as specified in sections 86.600 to 86.790;

[(17)**]** **(18)** "Surviving spouse", the legally married wife or husband of a member surviving the member's death.

86.611. TAX-EXEMPT STATUS OF RETIREMENT PLAN TO BE MAINTAINED — ASSETS OF SYSTEM TO BE HELD IN TRUST — MEMBER BENEFITS VESTED, WHEN — DISTRIBUTION OF BENEFITS. — 1. A retirement plan pursuant to sections 86.600 to 86.790 is a qualified plan pursuant to the provisions of applicable federal law. The benefits and conditions of a retirement plan pursuant to sections 86.600 to 86.790 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer this retirement system in such manner as to retain at all times qualified status pursuant to Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of this retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such exclusive benefit or to any purpose inconsistent with sections 86.600 to 86.790.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

(1) The attaining of the age of sixty-five or the member's tenth anniversary of employment, whichever is later;

(2) When the total sum of age and years of service equals or exceeds eighty; or

(3) To the extent funded, upon the termination of the system established pursuant to sections 86.600 to 86.790 or any partial termination which affects the member or any complete discontinuance of contributions by the city to the system.

Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit pursuant to sections 86.600 to 86.790 in excess of the benefit limits applicable to the fund pursuant to Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds the limits of this section by the amount of the excess. If the total benefits under this retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits pursuant to Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from this retirement system are reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of this retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury and may not exceed such other limits as may be applicable at any given time pursuant to Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is determined on the basis of actuarial assumptions that are not specifically set forth for that purpose in sections 86.600 to 86.790, the actuarial

assumptions used are those earnings and mortality assumptions used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions used at any particular time shall be attached as an addendum to a copy of the retirement system's statute maintained by the retirement board and shall be treated for all purposes as part of sections 86.600 to 86.790. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice on providing direction to the secretary of this retirement system regarding that transfer in accordance with procedures established by the retirement board.

10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible retirement plan shall also mean an annuity described in Section 403(b) of the Internal Revenue Code and an eligible plan pursuant to Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this retirement system. The definition for eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For the purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

86.665. LUMP-SUM OPTION PLAN DISTRIBUTION, PROCEDURE — VOID, WHEN. — 1. Any member entitled to commence a pension pursuant to either section 86.650 or 86.660 may elect an optional distribution under the partial lump-sum option plan provided in this section if such member:

(1) Notifies the retirement system in writing of such member's retirement date at least ninety days in advance thereof and requests an explanation of such member's rights pursuant to this section; and

(2) Notifies the retirement system of the member's election hereunder at least thirty days in advance of the retirement date. Following receipt of an initial notice of a member's retirement date and request for an explanation hereunder, the retirement system shall, at least sixty days in advance of such retirement date, provide such member a written explanation of such member's rights pursuant to this section and an estimate of the amount by which such member's regular monthly base pension would be reduced in the event of the member's election of any of the options available to such member pursuant to this section.

2. (1) A member entitled to make an election pursuant to this section may elect to receive a lump-sum distribution with such member's initial monthly pension payment pursuant to section 86.650 or 86.660, subject to all the terms of this section. The member

may elect the amount of the member's lump-sum distribution from one, but not more than one, of the following options for which such member qualifies:

(a) A member having one or more years of creditable service after such member's eligible retirement date may elect a lump-sum amount equal to twelve times the initial monthly base pension the member would receive if no election were made pursuant to this section;

(b) A member having two or more years of creditable service after such member's eligible retirement date may elect a lump-sum amount equal to twenty-four times the initial monthly base pension the member would receive if no election were made pursuant to this section; or

(c) A member having three or more years of creditable service after such member's eligible retirement date may elect a lump-sum amount equal to thirty-six times the initial monthly base pension the member would receive if no election were made pursuant to this section.

For purposes of this section, "eligible retirement date" for a member shall mean the earliest date on which the member could elect to retire and be entitled to receive a pension pursuant to either section 86.650 or 86.660.

(2) When a member makes an election to receive a lump-sum distribution pursuant to this section, the base pension that the member would have received in the absence of an election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump-sum distribution, and the reduced base pension shall be the member's base pension thereafter for all purposes relating to base pension amounts pursuant to sections 86.600 to 86.790.

(3) If a member electing a lump-sum distribution pursuant to this section has elected the optional annuity described in section 86.650, the calculation of such member's pension shall be made in the following order:

(a) The amount of the member's normal pension pursuant to section 86.650 shall be reduced if applicable by any reductions required pursuant to section 86.660;

(b) The amount of the normal pension as determined pursuant to paragraph (a) of this subdivision shall be reduced to the actuarially equivalent amount to produce the optional form of annuity described in subsection 2 of section 86.650;

(c) The amount of reduced pension as determined pursuant to paragraph (b) of this subdivision shall be further reduced as required to produce an actuarially equivalent benefit in the form of the lump-sum distribution option elected pursuant to this section and a remaining monthly annuity which shall be paid on the basis that the annuity for the member's spouse if such spouse survives the member shall be the same amount as the annuity paid the member and shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage.

3. An election pursuant to this section to receive a lump-sum distribution and reduced monthly base pension shall be void if the member dies before retirement, and amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.

86.671. OFFSETS TO WORKERS' COMPENSATION PAYMENTS — RULEMAKING AUTHORIZED — MEMBER'S PERCENTAGE DEFINED. — 1. Any **[**period**]** **periodic** payment, excluding payments for medical treatment, which may be paid or payable by the cities pursuant to the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against any benefits payable to the recipient of the workers' compensation payments from funds provided by the cities pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability or death. In no event, however, shall the amount paid from funds pursuant to the provisions of sections 86.600 to 86.790 be less than the amount which represents the member's percentage, as defined in

subsection 4 of this section, of total benefits payable pursuant to sections 86.600 to 86.790, before any offset for workers' compensation benefits.

2. Any lump sum amount, excluding payments for medical treatments, which may be paid or payable by the cities pursuant to the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against any benefits payable from funds provided by the cities pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability or death. The amounts by which each periodic payment made pursuant to the provisions of sections 86.600 to 86.790 is offset or reduced shall be computed as the periodic amount necessary to amortize as an annuity over the period of time represented by the respective workers' compensation benefits the total amount of the lump sum settlement received as a workers' compensation benefit by a beneficiary of the retirement system. Such computation shall be based upon the same interest rate and mortality assumptions as used for the retirement system at the time of such computation. In no event, however, shall the amount paid from funds pursuant to the provisions of sections 86.600 to 86.790 be less than the amount which represents the member's percentage, as defined in subsection 4 of this section, of total benefits payable pursuant to sections 86.600 to 86.790, before any offset for workers' compensation benefits.

3. The retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section.

4. As used in this section, the term "member's percentage" shall be the fraction of which the numerator is the percentage of compensation contributed by a working member to the retirement pension system pursuant to section 86.760 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of percentages of a member's compensation contributed by a working member and the city pursuant to section 86.760 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due pursuant to the provisions of sections 86.600 to 86.790 which is deemed to have been provided by the member's own contributions.

86.676. INCENTIVES FOR EARLY RETIREMENT, BOARD TO ADMINISTER AND PAY. — If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system under sections 86.600 to 86.790, in addition to such other benefits as such members or their beneficiaries are entitled to receive under sections 86.600 to 86.790, provided such city shall so request and shall agree to increase said city's contribution under section 86.760 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contribution under section 86.760, to provide all other benefits provided under sections 86.600 to 86.790.

86.690. DEATH OF MEMBER PRIOR TO OR FOLLOWING RETIREMENT, PAYMENTS MADE, HOW — ADDITIONAL ONE THOUSAND DOLLAR FUNERAL BENEFIT PAID, WHEN. — 1. Upon death after August 28, 2001, of a member for any cause prior to retirement, the following amounts shall be payable subject to subsection 5 of this section, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

(6) No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.

2. Upon death following retirement for any cause after August 28, 2001, of a member who has not elected the optional annuity pursuant to section 86.650, the member's surviving spouse shall receive a pension payable for life, equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage. If there be no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualifies for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

4. Should the total amount paid from the retirement system to a member, the member's surviving spouse [and]**,** any other beneficiary of the member**, and the funeral benefit under subsection 6 of this section** be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an

optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

6. Upon receipt of the proper proof of death of a member in service after August 28, 2003, or the death of a member in service on or after August 28, 2003, who dies after having been retired and pensioned, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.

86.720. BOARD TO MAKE RULES — OFFICERS — EMPLOYEES. — The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.600 to 86.790 are hereby vested in the retirement board. The retirement board shall, from time to time, establish rules and regulations for the administration of its assets and for the transaction of its business. **The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo.** The retirement board shall elect from its membership a chairman, a vice chairman, and a treasurer, and shall, by majority vote of its members, appoint a secretary, who may be but need not be one of its members. The retirement board may employ any actuarial, legal and other services as may be necessary to transact the business of the retirement system. The compensation of all persons employed by the retirement board and all other expenses of the board necessary for the operation of the retirement system shall be paid in the manner as the retirement board shall determine; except that the compensation of the persons as may be employed by the retirement board shall not be greater than the compensation paid for comparable abilities by the government of the city in which the retirement board is located.

86.745. BOARD MAY PURCHASE LIABILITY INSURANCE — INDEMNIFICATION IN CASE OF ACTION, SUIT, OR PROCEEDING — WHEN. — 1. **The retirement board may purchase with retirement system assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of the retirement system and any trustee, member of the retirement board, officer, or employee of the retirement system for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's, board member's, officer's, or employee's capacity as a fiduciary, officer, or employee of the retirement system and for costs and expenses, including attorney fees, incurred as a trustee, board member, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for reimbursement of a trustee, board member, officer, or employee for liability imposed or expenses incurred because of the trustee's, board member's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.**

2. If the insurance coverage described in subsection 1 of this section is insufficient or is not in effect, the retirement board may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that **[**he**] the person** is or was a member of the retirement board, or is or was serving at the request of the retirement board in the capacity which caused **[**his**] the person's** relationship to such action, suit or proceeding, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by **[**him**] the person** in connection with such action, suit or proceeding, if **[**he**] the person** acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe **[**his**] the relevant** conduct was lawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that **[**he**] the person** did not have reasonable cause to believe that **[**his**] the relevant** conduct was lawful.

[2.**]** **3.** To the extent that a member of the retirement board has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in **[**subsection**]** **subsections** 1 **and 2** of this section, or in defense of any claim, issue or matter therein, **[**he**]** **the person** shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred **[**by him**]** in connection with the action, suit or proceeding **that are not covered by the insurance described in subsection 1 of this section**.

[3.**]** **4.** Any indemnification under **[**subsection 1 of**]** this section, unless ordered by a court, shall be made by the retirement board only as authorized in each specific case upon a determination that indemnification of **[**the member of the retirement board**]** **any person potentially entitled to indemnification hereunder** is proper in the circumstances because **[**he**]** **the person** has met the applicable standard of conduct set forth in this section. The determination shall be made by the retirement board by a majority vote of a quorum consisting of members of the retirement board who are not parties to the action, suit or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested members of the retirement board so directs, by independent legal counsel (who may but need not be counsel to the retirement system) in a written opinion.

[4.**]** **5.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the retirement board in advance of the final disposition of the action, suit or proceeding as authorized by the retirement board in the specific case upon receipt of an undertaking by or on behalf of the **[**member of the retirement board**]** **person potentially entitled to indemnification hereunder** to repay such amount unless it shall ultimately be determined that **[**he**]** **the person** is entitled to be indemnified by the retirement board as authorized in this section.

Approved July 11, 2003

SB 218 [HCS SCS SB 218]

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

Authorizes imposition of lateral sewer service repair fee in certain situations.

AN ACT to repeal section 249.422, RSMo, and to enact in lieu thereof one new section relating to fees imposed by municipalities to repair lateral sewer service lines.

SECTION

A. Enacting clause.

249.422. Fee imposed to repair lateral sewer service lines for certain residential property and in certain counties — condominiums responsible for proportionate share — ballot form — special account established for fees collected.

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

SECTION A. ENACTING CLAUSE. — Section 249.422, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 249.422, to read as follows:

249.422. FEE IMPOSED TO REPAIR LATERAL SEWER SERVICE LINES FOR CERTAIN RESIDENTIAL PROPERTY AND IN CERTAIN COUNTIES — CONDOMINIUMS RESPONSIBLE FOR PROPORTIONATE SHARE — BALLOT FORM — SPECIAL ACCOUNT ESTABLISHED FOR FEES COLLECTED. — 1. If approved by a majority of the voters voting on the proposal, any city, town, village or county on behalf of the unincorporated area, located either within the boundaries

of a sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution or within any county of the first classification having a charter form of government with a population of more than two hundred ten thousand inhabitants but less than three hundred thousand inhabitants, may by city, town, village or county ordinance levy and impose annually for the repair of lateral sewer service lines on **or connecting** residential property having six or less dwelling units a fee not to exceed **[**twenty-eight**] fifty** dollars per year. **Any city, town, village, or county that establishes or increases the fee used to repair any portion of the lateral sewer service line shall include all defective portions of the lateral sewer service line from the residential structure to its connection with the public sewer system line. Notwithstanding any provision of chapter 448, RSMo, the fee imposed pursuant to this chapter shall be imposed upon condominiums that have six or less condominium units per building and each condominium unit shall be responsible for its proportionate share of any fee charged pursuant to this chapter, and in addition, any condominium unit shall, if determined to be responsible for and served by its own individual lateral sewer line, be treated as an individual residence regardless of the number of units in the development. It shall be the responsibility of the condominium owner or condominium association who are of the opinion that they are not properly classified as provided in this section to notify the county office administering the program. Where an existing sewer lateral program was in effect prior to the effective date of this act, condominium and apartment units not previously enrolled may be ineligible for enrollment if it is determined that the sewer lateral serving the unit is defective.**

2. The question shall be submitted in substantially the following form:

Shall a **[**maximum**]** charge **[**of seven**] not to exceed fifty** dollars be assessed **[**quarterly**] annually** on **[**all**]** residential property **[**having**] for each lateral sewer service line serving** six or less dwelling units **on that property and condominiums that have six or less condominium units per building and any condominium responsible for its own individual lateral sewer line** to provide funds to pay the cost of certain repairs of **[**defective**] those** lateral sewer service lines **[**of those dwelling units**] which may be billed quarterly or annually**?

[ ] YES [ ] NO

3. If a majority of the voters voting thereon approve the proposal provided for in subsection 2 of this section, the governing body of the city, town, village or county may enact an ordinance for the collection and administration of such fee in order to protect the public health, welfare, peace and safety. The funds collected pursuant to such ordinance shall be deposited in a special account to be used solely for the purpose of paying for all or a portion of the costs reasonably associated with and necessary to administer and carry out the defective lateral sewer service line repairs. All interest generated on deposited funds shall be accrued to the special account established for the repair of lateral sewer service lines.

Approved July 1, 2003

SB 219 [SS SB 219]

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 Korean Conflict Medallion Program.

AN ACT to repeal sections 42.175 and 313.835, RSMo, and to enact in lieu thereof six new sections relating to medallions for service in the armed forces, with an emergency clause.

SECTION
A. Enacting clause.
42.175. Adjutant general to administer awards — disposition of deceased applicant's awards.
42.200. Program established, criteria — veteran defined.
42.202. Adjutant general to administer program, rulemaking authority — application procedure — disallowance, procedure.
42.204. Veterans' commission to design form of medallions, medals and certificates.
42.206. Korean Conflict veterans' recognition award fund created, use of moneys — automatic termination of fund, when.
313.835. Gaming commission fund created, purpose, expenditures — veterans' commission capital improvement trust fund, created, purpose, funding — disposition of proceeds of gaming commission fund — early childhood development education and care fund, created, purpose, funding, study, rules — grants for veterans' service officer program.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 42.175 and 313.835, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 42.175, 42.200, 42.202, 42.204, 42.206, and 313.835, to read as follows:

42.175. ADJUTANT GENERAL TO ADMINISTER AWARDS — DISPOSITION OF DECEASED APPLICANT'S AWARDS. — 1. Except as otherwise provided in sections 42.170 to 42.185, the adjutant general of the state of Missouri shall administer sections 42.170 to 42.185, and may adopt all rules and regulations necessary to administer the provisions of sections 42.170 to 42.185. No rule or portion of a rule promulgated pursuant to sections 42.170 to 42.185 shall become effective unless promulgated pursuant to chapter 536, RSMo.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185 and distribute the medallions, medals and the certificates as provided in sections 42.170 to 42.185. Applications for the medallion, medal and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2001, and before July 1, **[**2003**]** **2004**, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall approve all applications that are in order, and shall cause a medallion, medal and a certificate to be prepared for each approved veteran in the form created by the veterans' commission pursuant to section 42.180.

3. The following persons may apply for a medallion, medal and certificate pursuant to sections 42.170 to 42.185:

(1) Any veteran who is entitled to a medallion, medal and certificate pursuant to sections 42.170 to 42.185;

(2) Any spouse **or eldest living survivor** of a veteran who is entitled to a medallion, medal and certificate pursuant to sections 42.170 to 42.185 but who died prior to having made application for such medallion, medal and certificate.

4. If any spouse **or eldest living survivor** applies for the medallion, medal and certificate pursuant to subsection 3 of this section or if any veteran dies after applying for a medallion or medal and a certificate pursuant to sections 42.170 to 42.185 and such veteran would have been entitled to the medallion, medal and the certificate, the adjutant general shall give the medallion, medal and the certificate to the spouse **or eldest living survivor** of the deceased veteran.

5. If the adjutant general disallows any veteran's claim to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

42.200. PROGRAM ESTABLISHED, CRITERIA — VETERAN DEFINED. — 1. There is hereby created within the state adjutant general's office, the "Korean Conflict Medallion

Program". Every veteran who honorably served on active duty in the United States military service at any time beginning June 27, 1950, and ending January 31, 1955, shall be entitled to receive a Korean conflict medallion, medal, and a certificate of appreciation pursuant to sections 42.200 to 42.206, provided that:

(1) Such veteran is a legal resident of this state on August 28, 2003, or was a legal resident of this state at the time of his or her death; and

(2) Such veteran was honorably separated or discharged from military service or is still in active service in an honorable status, or was in active service in an honorable status at the time of his or her death.

2. The Korean conflict medallion, medal, and a certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal, and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of sections 42.200 to 42.206, "veteran" means any person defined as a veteran by the United States Department of Veterans' Affairs or its successor agency.

42.202. ADJUTANT GENERAL TO ADMINISTER PROGRAM, RULEMAKING AUTHORITY — APPLICATION PROCEDURE — DISALLOWANCE, PROCEDURE. — 1. Except as otherwise provided in sections 42.200 to 42.206, the adjutant general of the state of Missouri shall administer the provisions of sections 42.200 to 42.206, and may adopt all rules and regulations necessary to administer the provisions of sections 42.200 to 42.206. 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 42.200 to 42.206 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 42.200 to 42.206 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, 2003, shall be invalid and void.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a Korean conflict medallion, medal, and a certificate pursuant to sections 42.200 to 42.206 and distribute the medallions, medals, and the certificates as provided in sections 42.200 to 42.206. Applications for the Korean conflict medallion, medal, and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2004, and before January 1, 2005, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall approve all applications that are in order, and shall cause a Korean conflict medallion, medal, and a certificate to be prepared for each approved veteran in the form created by the veterans' commission pursuant to section 42.204.

3. The following persons may apply for a Korean conflict medallion, medal, and a certificate pursuant to sections 42.200 to 42.206:

(1) Any veteran who is entitled to a Korean conflict medallion, medal, and a certificate pursuant to sections 42.200 to 42.206;

(2) Any spouse or eldest living survivor of a deceased veteran who would be entitled to a Korean conflict medallion, medal, and a certificate pursuant to sections 42.200 to 42.206 but who died prior to having made application for such medallion, medal, and certificate.

4. If any spouse or eldest living survivor applies for the Korean conflict medallion, medal, and certificate pursuant to subsection 3 of this section or if any veteran dies after applying for a Korean conflict medallion, medal, and a certificate pursuant to sections 42.200 to 42.206 and such veteran would have been entitled to the Korean conflict medallion, medal, and the certificate, the adjutant general shall give the Korean conflict

medallion, medal, and the certificate to the spouse or eldest living survivor of the deceased veteran.

5. If the adjutant general disallows any veteran's claim to a Korean conflict medallion, medal, and a certificate pursuant to sections 42.200 to 42.206, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

42.204. VETERANS' COMMISSION TO DESIGN FORM OF MEDALLIONS, MEDALS AND CERTIFICATES. — The veterans' commission shall design the form of the Korean conflict medallion, medal, and the certificate and forward the approved designs to the adjutant general for distribution pursuant to sections 42.200 to 42.206. It is the intent of the general assembly to create statewide involvement in the design of these symbols in recognition of this historic endeavor. Therefore, in designing the forms, the veterans' commission may solicit potential designs from elementary and secondary schools, veterans' groups, civic organizations, or any other interested party, and may select the best design from among such solicited designs, or may select another design.

42.206. KOREAN CONFLICT VETERANS' RECOGNITION AWARD FUND CREATED, USE OF MONEYS — AUTOMATIC TERMINATION OF FUND, WHEN. — 1. The "Korean Conflict Veterans' Recognition Award Fund" is hereby created in the state treasury, and shall consist of all gifts, donations, and bequests to the fund. The fund shall be administered by the adjutant general. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Korean conflict veterans' recognition award fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. Interest and moneys earned on the fund shall be credited to the fund.

2. Moneys in the fund shall be used solely to promote the solicitation for designs for, aid in the manufacture of, and aid in the distribution of the medallion, medal, and the certificate.

3. When all allowed Korean conflict medallions, medals, and certificates have been distributed, the fund shall automatically be terminated. Any balance remaining in the fund after all such distributions shall be transferred to the veterans' commission capital improvement trust fund created in section 313.835, RSMo.

313.835. GAMING COMMISSION FUND CREATED, PURPOSE, EXPENDITURES — VETERANS' COMMISSION CAPITAL IMPROVEMENT TRUST FUND, CREATED, PURPOSE, FUNDING — DISPOSITION OF PROCEEDS OF GAMING COMMISSION FUND — EARLY CHILDHOOD DEVELOPMENT EDUCATION AND CARE FUND, CREATED, PURPOSE, FUNDING, STUDY, RULES — GRANTS FOR VETERANS' SERVICE OFFICER PROGRAM. — 1. All revenue received by the commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the commission and admission fees authorized pursuant to the provisions of sections 313.800 to 313.850, except that portion of the admission fee, not to exceed one cent, that may be appropriated to the compulsive gamblers fund as provided in section 313.820, shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the sole purpose of funding the administrative costs of the commission, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of gambling operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. In each fiscal year, total revenues to the gaming commission fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal year. The remaining net proceeds in the gaming commission fund shall be distributed in the following manner:

(1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

(2) The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

(a) The construction, maintenance or renovation or equipment needs of veterans' homes in this state;

(b) The construction, maintenance, renovation, equipment needs and operation of veterans' cemeteries in this state;

(c) Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121, RSMo, as necessary to maintain solvency of the fund;

(d) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans' commission capital improvement trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans' memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans' memorials shall be made only for applications received by the Missouri veterans' commission prior to July 1, 2004;

(e) The issuance of matching fund grants for veterans' service officer programs to any federally chartered veterans' organization or municipal government agency that is certified by the Veterans Administration to process veteran claims within the Veterans Administration System; provided that such veterans' organization has maintained a veterans' service officer presence within the state of Missouri for the three-year period immediately preceding the issuance of any such grant. A total of seven hundred fifty thousand dollars in grants shall be made available annually with grants being issued in July of each year. Application for the matching grants shall be made through and approved by the Missouri veterans' commission based on the requirements established by the commission;

(f) For payment of Missouri national guard and Missouri veterans' commission expenses associated with providing medals, medallions and certificates in recognition of service in the armed forces of the United States during World War II **and the Korean Conflict** pursuant to sections 42.170 to **[**42.190**]** **42.206**, RSMo. Any funds remaining from the medals, medallions and certificates shall **[**be used to pay for the buglers at veteran burials**]** **not be transferred to any other fund and shall only be utilized for the awarding of future medals, medallions, and certificates in recognition of service in the armed forces**; and

(g) Fund transfers totaling ten million dollars to any municipality with a population greater than three hundred fifty thousand inhabitants and located in part in a county with a population greater than six hundred thousand inhabitants and with a charter form of government, for the sole purpose of the construction, restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I.

Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission

capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund;

(3) The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:

(a) Three million dollars shall be transferred to the veterans' commission capital improvement trust fund;

(b) Three million dollars shall be transferred to the Missouri national guard trust fund created in section 41.214, RSMo;

(c) Three million dollars shall be transferred to the Missouri college guarantee fund, established pursuant to the provisions of section 173.248, RSMo, and additional moneys as annually appropriated by the general assembly shall be appropriated to such fund;

(d) Subject to appropriations, one hundred percent of remaining net proceeds in the gaming commission fund except as provided in paragraph (l) of this subdivision, shall be transferred to the "Early Childhood Development, Education and Care Fund" which is hereby created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in which they are eligible to enroll in kindergarten, pursuant to section 160.053, RSMo, to enter school ready to learn. All moneys deposited in the early childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten;

(e) No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this paragraph to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys pursuant to the provisions of this paragraph and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of such moneys pursuant to the provisions of this paragraph shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants.

a. Grants or contracts may be provided for:

(i) Start-up funds for necessary materials, supplies, equipment and facilities; and

(ii) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;

b. Grant and contract applications shall, at a minimum, include:

(i) A funding plan which demonstrates funding from a variety of sources including parental fees;

(ii) A child development, education and care plan that is appropriate to meet the needs of children;

(iii) The identity of any partner agencies or contractual service providers;

(iv) Documentation of community input into program development;

(v) Demonstration of financial and programmatic accountability on an annual basis;

(vi) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and

(vii) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;

c. In awarding grants and contracts pursuant to this paragraph, the departments may give preference to programs which:

(i) Are new or expanding programs which increase capacity;

(ii) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;

(iii) Are programs designed for special needs children;

(iv) Are programs that offer services during nontraditional hours and weekends; or

(v) Are programs that serve a high concentration of low-income families;

d. Beginning on August 28, 1998, the department of elementary and secondary education and the department of social services shall initiate and conduct a four-year study to evaluate the impact of early childhood development, education and care in this state. The study shall consist of an evaluation of children eligible for moneys pursuant to this paragraph, including an evaluation of the early childhood development, education and care of those children participating in such program and those not participating in the program over a four-year period. At the conclusion of the study, the department of elementary and secondary education and the department of social services shall, within ninety days of conclusion of the study, submit a report to the general assembly and the governor, with an analysis of the study required pursuant to this subparagraph, all data collected, findings, and other information relevant to early childhood development, education and care;

(f) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. 9858c(c)(2)(A) and 42 U.S.C. 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds shall be released to be used for supplementing the competitive grants and contracts program authorized pursuant to paragraph (e) of this subdivision;

(g) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization;

(h) No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods;

(i) In setting the value of parental certificates under paragraph (f) of this subdivision and payments under paragraph (h) of this subdivision, the department of social services may increase the value based on the following:

a. The adult caretaker of the children successfully participates in the parents as teachers program pursuant to the provisions of sections 178.691 to 178.699, RSMo, a training program provided by the department on early childhood development, education and care, the home-

based Head Start program as defined in 42 U.S.C. 9832 or a similar program approved by the department;

b. The adult caretaker consents to and clears a child abuse or neglect screening pursuant to subdivision (1) of subsection 2 of section 210.152, RSMo; and

c. The degree of economic need of the family;

(j) The department of elementary and secondary education and the department of social services each shall by rule promulgated pursuant to chapter 536, RSMo, establish guidelines for the implementation of the early childhood development, education and care programs as provided in paragraphs (e) through (i) of this subdivision;

(k) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in paragraph (j) of this subdivision 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 or 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 act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998;

(l) When the remaining net proceeds, as such term is used pursuant to paragraph (d) of this subdivision, in the gaming commission fund annually exceeds twenty-seven million dollars, one and one-half million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri college guarantee fund, established pursuant to the provisions of section 173.248, RSMo.

2. Upon request by the veterans' commission, the general assembly may appropriate moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because of the need to properly recognize members of our armed forces in a timely manner, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2003

SB 228 [HCS SB 228]

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

Enables the City of Warrenton and Shannon County to levy a transient guest tax.

AN ACT to repeal section 67.1360, RSMo, and to enact in lieu thereof two new sections relating to the purpose of tourism.

SECTION

A. Enacting clause.
67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
67.2015. Surcharge for tickets or admission to certain tourist attractions and hotels, motels, and campgrounds (Shannon County).

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

SECTION A. ENACTING CLAUSE. — Section 67.1360, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 67.1360 and 67.2015, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

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

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

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

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

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

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

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

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

(23) **Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants; or**

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants; may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.2015. SURCHARGE FOR TICKETS OR ADMISSION TO CERTAIN TOURIST ATTRACTIONS AND HOTELS, MOTELS, AND CAMPGROUNDS (SHANNON COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than eight thousand three hundred but less than eight thousand four hundred

inhabitants may impose, by ordinance or order, a surcharge on the sale of each ticket or other charge allowing admission to or participation in any private tourist attraction and on the daily rental of rooms or accommodations paid by transient guests of hotels, motels or campgrounds, as defined in section 94.802, RSMo, in such county, at a rate not to exceed five percent of such admission or amount. For purposes of this section, "private tourist attraction" means:

(1) Organized trail rides; and

(2) Canoe rentals;

Attractions operating on an occasional or intermittent basis for fund-raising purposes by nonprofit charitable organizations whose ordinary activities do not involve the operation of such attractions shall be exempt from the surcharge imposed by this section.

2. Every retailer, vendor, operator, and other person who sells goods and services subject to the surcharge imposed pursuant to this section shall be liable and responsible for the payment of surcharges due and shall make a return and remit such surcharges to the county, at such times and in such manner as the governing body of the county shall prescribe. The collection of the surcharges imposed by this section shall be computed in accordance with schedules or systems approved by the governing body of the county.

3. All surcharges authorized and collected under this section shall be deposited by the county in a special trust fund to be known as the "County Tourism Surcharge Trust Fund". The moneys in such fund shall not be commingled with any funds of the county. Moneys in the fund shall be used solely by the county for the promotion of tourism within the county. The surcharge authorized by this section shall be in addition to any and all other taxes allowed by law, but no order imposing a surcharge pursuant to this section shall be effective unless the governing body of the county submits to the voters of the county at a county or state general, primary, or special election a proposal to authorize the governing body of the county to impose such surcharge.

4. The ballot of submission shall contain, but need not be limited to:

Shall the county of ..... (insert name of county) impose a surcharge of (insert rate of tax) percent on the sales, charges or admissions on all hotels, motels or campgrounds rented for thirty days or less, and on the sales, charges or admissions to all private tourist attractions in the county?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the order imposing the surcharge shall be effective. If a majority of the votes cast by the qualified voters voting on the proposal are opposed to the proposal, then the governing body of the county shall have no power to impose the surcharge authorized in this section unless and until the governing body of the county again submits another proposal to authorize the governing body of the county to impose the surcharge authorized by this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon.

5. The surcharge authorized by this section shall become effective within ninety days from the date such surcharges are approved by the voters of the county pursuant to this section. After the effective date of any surcharge imposed by this section, the county shall perform all functions incident to the administration, collection, enforcement, and operation of the surcharge. The surcharge imposed by this section shall be reported upon such forms as may be prescribed by the governing body of the county.

Approved July 1, 2003

SB 232 [SB 232]

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

Authorizes conveyance of state property in Thousand Hills State Park.

AN ACT to authorize the conveyance of property at Thousand Hills State Park.

SECTION

1. Conveyance by the state of property at Thousand Hills State Park to James Joseph Lyons.
2. Consideration for conveyance of property to James Joseph Lyons.
3. Approval of form of instruments of conveyance by the attorney general.

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

SECTION 1. CONVEYANCE BY THE STATE OF PROPERTY AT THOUSAND HILLS STATE PARK TO JAMES JOSEPH LYONS. — The Missouri department of natural resources is hereby authorized to remise, release, and forever quit claim the following described property at Thousand Hills State Park to James Joseph Lyons. The property to be conveyed is more particularly described as follows:

A tract of land in the County of Adair and the State of Missouri, lying in part of the south half of Lot 1 of the southwest quarter of Section 7 in Township 62 North, Range 15 West of the Fifth Principal Meridian, being all that part easterly and southerly of the following described agreement boundary:

Commencing at a 5/8 inch rebar marking the southwest corner of Lot 1 of the southwest quarter of said Section 7 per survey filed with the Missouri Department of Natural Resources as document #750-26872; thence along the west line of said Lot 1 as per said survey, north 00 degrees 10 minutes 35 seconds west, a distance of 528.65 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described agreement boundary, from which a found 5/8 inch rebar bears south 00 degrees 10 minutes 35 seconds east, a distance of 7.95 feet; thence departing said west line of Lot 1, south 69 degrees 38 minutes 25 seconds east, a distance of 68.40 feet to a set 5/8 inch rebar; thence north 00 degrees 30 minutes 00 seconds west, a distance of 587.00 feet to an existing 2 and 1/2 inch angle iron fence corner; thence north 88 degrees 48 minutes 30 seconds east, a distance of 444.80 feet to an existing 2 and 1/2 inch angle iron fence corner; thence south 00 degrees 17 minutes 00 seconds east, a distance of 260.75 feet to a set 5/8 inch rebar, the point of termination of the herein described agreement boundary, from which a found 5/8 inch rebar per survey filed with the Missouri Department of Natural Resources as document #750-26966, bears south 89 degrees 40 minutes 55 seconds east, a distance of 819.2 feet.

SECTION 2. CONSIDERATION FOR CONVEYANCE OF PROPERTY TO JAMES JOSEPH LYONS. — In consideration for the conveyance in section 1 of this act, the Missouri department of natural resources is hereby authorized to receive via quit claim deed the following property from James Joseph Lyons. The property to be conveyed to the department is more particularly described as follows:

A tract of land in the County of Adair and the State of Missouri, lying in part of the south half of Lot 1 of the southwest quarter of Section 7 in Township 62 North, Range 15 West of the Fifth Principal Meridian, being all that part westerly and northerly of the following described agreement boundary:

Commencing at a 5/8 inch rebar marking the southwest corner of Lot 1 of the southwest quarter of said Section 7 per survey filed with the Missouri Department of

Natural Resources as document #750-26872; thence along the west line of said Lot 1 as per said survey, north 00 degrees 10 minutes 35 seconds west, a distance of 528.65 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described agreement boundary, from which a found 5/8 inch rebar bears south 00 degrees 10 minutes 35 seconds east, a distance of 7.95 feet; thence departing said west line of Lot 1, south 69 degrees 38 minutes 25 seconds east, a distance of 68.40 feet to a set 5/8 inch rebar; thence north 00 degrees 30 minutes 00 seconds west, a distance of 587.00 feet to an existing 2 and 1/2 inch angle iron fence corner; thence north 88 degrees 48 minutes 30 seconds east, a distance of 444.80 feet to an existing 2 and 1/2 inch angle iron fence corner; thence south 00 degrees 17 minutes 00 seconds east, a distance of 260.75 feet to a set 5/8 inch rebar, the point of termination of the herein described agreement boundary, from which a found 5/8 inch rebar per survey filed with the Missouri Department of Natural Resources as document #750-26966, bears south 89 degrees 40 minutes 55 seconds east, a distance of 819.2 feet.

SECTION 3. APPROVAL OF FORM OF INSTRUMENTS OF CONVEYANCE BY THE ATTORNEY GENERAL. — The attorney general shall approve as to form the instruments of conveyance.

Approved May 8, 2003

SB 234 [HCS SB 234]

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

Allows Clay County to open or operate a concession stand at privately operated marinas.

AN ACT to repeal section 64.342, RSMo, and to enact in lieu thereof one new section relating to county facilities, with an emergency clause.

SECTION

A. Enacting clause.
64.342. Park concession stands or marinas, county-operated, sale of refreshments, contracting procedures, proceeds go to county park fund (Clay County).
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 64.342, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 64.342, to read as follows:

64.342. PARK CONCESSION STANDS OR MARINAS, COUNTY-OPERATED, SALE OF REFRESHMENTS, CONTRACTING PROCEDURES, PROCEEDS GO TO COUNTY PARK FUND (CLAY COUNTY). — 1. **[**Section 64.341 to the contrary notwithstanding,**]** The county commission of any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand containing part of a city with a population over three hundred fifty thousand is hereby authorized to acquire, by purchase or gift, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate, in whole or in part, concession stands or marinas within any area contiguous to the lake which is used as a public park, playground, camping site or recreation area. No such lease or concession grant shall be for a

longer term than twenty-five years**, unless the proposed investment by the lessee or concessionaire is greater than ten million dollars, in which case the lease or concession grant may, at the county's option, be for a term not to exceed fifty years**.

2. Such concession stands or marinas may offer refreshments for sale to the public using such areas and services therein relating to boating, swimming, picnicking, golfing, shooting, horseback riding, fishing, tennis and other recreational, cultural and educational uses upon such terms and under such regulations as the county may prescribe. **If the county elects to bid the services authorized herein, the county shall award any contracts relating thereto to the most favorable bidder based upon the terms and regulations prescribed by the county after due opportunity for competition including advertising the proposal letting or granting in a newspaper in the county with a circulation of at least five hundred copies per issue, if there be such, and if not, in such case notice shall be posted on the bulletin board in the county courthouse. The county shall have the right to reject any and all bids.**

3. All moneys derived from the operation of concession stands or marinas shall be paid into the county treasury and be credited to a "Park Fund" to be established by each county authorized under subsection 1 of this section and be used and expended by the county commission for park purposes.

4. **[**The provisions of this section authorizing and extending authority to counties concerning marinas shall not apply to any privately operated marina in operation prior to August 28, 2000, except that if an operator is in default or if no bids are received during the open bid period, then the county may operate such marina for a period not to exceed a cumulative total of twenty-four months.**]** **If the county owns, operates, or leases more than two such marinas, the county shall request bids for the operation of at least one marina pursuant to this section. Any lease or grant made pursuant to this section shall be made with a private individual or group of individuals or with any privately owned entity. The county may operate the marina to be leased or granted for a period not to exceed twenty-four months:**

(1) From the date the county obtains ownership of more than two such marinas;

(2) If no bids are deemed by the county to be responsive or favorable; or

(3) In the event that an operator of the marina does not comply with the lease terms.

5. Any county meeting the qualifications of this section shall also have any other powers granted in section 64.341, provided, such powers shall not be construed to limit any powers granted in this section.

SECTION B. EMERGENCY CLAUSE. — Because of the need to clarify the rights of property owners, the repeal and reenactment of section 64.342 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 64.342 of section A of this act shall be in full force and effect upon its passage and approval.

Approved April 28, 2003

SB 235 [SB 235]

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

Considers the value of a redevelopment area when calculating local indebtedness limit.

AN ACT to repeal section 99.845, RSMo, and to enact in lieu thereof one new section relating to local government indebtedness.

SECTION
A. Enacting clause.
99.845. Tax increment financing adoption — division of ad valorem taxes — payments in lieu of tax, deposit, inclusion and exclusion of current equalized assessed valuation for certain purposes, when — other taxes included, amount — supplemental tax increment financing fund established, disbursement.

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

SECTION A. ENACTING CLAUSE. — Section 99.845, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.845, to read as follows:

99.845. TAX INCREMENT FINANCING ADOPTION — DIVISION OF AD VALOREM TAXES — PAYMENTS IN LIEU OF TAX, DEPOSIT, INCLUSION AND EXCLUSION OF CURRENT EQUALIZED ASSESSED VALUATION FOR CERTAIN PURPOSES, WHEN — OTHER TAXES INCLUDED, AMOUNT — SUPPLEMENTAL TAX INCREMENT FINANCING FUND ESTABLISHED, DISBURSEMENT. — 1. A municipality, either at the time a redevelopment project is approved or, in the event a municipality has undertaken acts establishing a redevelopment plan and redevelopment project and has designated a redevelopment area after the passage and approval of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are in conformance with the procedures of sections 99.800 to 99.865, may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 2 of section 99.855 each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:

(1) That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;

(2) **(a)** Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid to the municipal treasurer who shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation Fund" of the municipality for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable. The municipality may, in the ordinance, pledge the funds in the special allocation fund for the payment of such costs and obligations and provide for the collection of payments in lieu of taxes, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in section 88.861, RSMo. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of property in the area selected for the redevelopment project attributable to any increase above the total initial equalized assessed value of such properties shall be used in calculating the general state school aid formula

provided for in section 163.031, RSMo, until such time as all redevelopment costs have been paid as provided for in this section and section 99.850;

(b) Notwithstanding any provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to article VI, section 26(b) of the Missouri Constitution, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes;

(c) The county assessor shall include the current assessed value of all property within the taxing district in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, RSMo, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to article VI, section 26(b) of the Missouri Constitution;

(3) For purposes of this section, "levies upon taxable real property in such redevelopment project by taxing districts" shall not include the blind pension fund tax levied under the authority of article III, section 38(b) of the Missouri Constitution, or the merchants' and manufacturers' inventory replacement tax levied under the authority of subsection 2 of section 6 of article X, of the Missouri Constitution, except in redevelopment project areas in which tax increment financing has been adopted by ordinance pursuant to a plan approved by vote of the governing body of the municipality taken after August 13, 1982, and before January 1, 1998.

2. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after July 12, 1990, and prior to August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest imposed by the municipality, or other taxing districts, which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, RSMo, licenses, fees or special assessments other than payments in lieu of taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant to section 94.660, RSMo, for the purpose of public transportation, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. Any provision of an agreement, contract or covenant entered into prior to July 12, 1990, between a municipality and any other political subdivision which provides for an appropriation of other municipal revenues to the special allocation fund shall be and remain enforceable.

3. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest which are imposed by the municipality or other taxing districts, and which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, RSMo, or effective January 1, 1998, taxes levied for the purpose of public transportation pursuant to section 94.660, RSMo, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other

designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund.

4. Beginning January 1, 1998, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance and which have complied with subsections 4 to 12 of this section, in addition to the payments in lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of this section, up to fifty percent of the new state revenues, as defined in subsection 8 of this section, estimated for the businesses within the project area and identified by the municipality in the application required by subsection 10 of this section, over and above the amount of such taxes reported by businesses within the project area as identified by the municipality in their application prior to the approval of the redevelopment project by ordinance, while tax increment financing remains in effect, may be available for appropriation by the general assembly as provided in subsection 10 of this section to the department of economic development supplemental tax increment financing fund, from the general revenue fund, for distribution to the treasurer or other designated financial officer of the municipality with approved plans or projects.

5. The treasurer or other designated financial officer of the municipality with approved plans or projects shall deposit such funds in a separate segregated account within the special allocation fund established pursuant to section 99.805.

6. No transfer from the general revenue fund to the Missouri supplemental tax increment financing fund shall be made unless an appropriation is made from the general revenue fund for that purpose. No municipality shall commit any state revenues prior to an appropriation being made for that project. For all redevelopment plans or projects adopted or approved after December 23, 1997, appropriations from the new state revenues shall not be distributed from the Missouri supplemental tax increment financing fund into the special allocation fund unless the municipality's redevelopment plan ensures that one hundred percent of payments in lieu of taxes and fifty percent of economic activity taxes generated by the project shall be used for eligible redevelopment project costs while tax increment financing remains in effect. This account shall be separate from the account into which payments in lieu of taxes are deposited, and separate from the account into which economic activity taxes are deposited.

7. In order for the redevelopment plan or project to be eligible to receive the revenue described in subsection 4 of this section, the municipality shall comply with the requirements of subsection 10 of this section prior to the time the project or plan is adopted or approved by ordinance. The director of the department of economic development and the commissioner of the office of administration may waive the requirement that the municipality's application be submitted prior to the redevelopment plan's or project's adoption or the redevelopment plan's or project's approval by ordinance.

8. For purposes of this section, "new state revenues" means:

(1) The incremental increase in the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated facility shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as stated in the redevelopment plan as provided in subsection 10 of this section; or

(2) The state income tax withheld on behalf of new employees by the employer pursuant to section 143.221, RSMo, at the business located within the project as identified by the municipality. The state income tax withholding allowed by this section shall be the municipality's estimate of the amount of state income tax withheld by the employer within the redevelopment area for new employees who fill new jobs directly created by the tax increment financing project.

9. Subsection 4 of this section shall apply only to blighted areas located in enterprise zones, pursuant to sections 135.200 to 135.256, RSMo, blighted areas located in federal empowerment zones, or to blighted areas located in central business districts or urban core areas of cities which districts or urban core areas at the time of approval of the project by ordinance, provided that the enterprise zones, federal empowerment zones or blighted areas contained one or more buildings at least fifty years old; and

(1) Suffered from generally declining population or property taxes over the twenty-year period immediately preceding the area's designation as a project area by ordinance; or

(2) Was a historic hotel located in a county of the first classification without a charter form of government with a population according to the most recent federal decennial census in excess of one hundred fifty thousand and containing a portion of a city with a population according to the most recent federal decennial census in excess of three hundred fifty thousand.

10. The initial appropriation of up to fifty percent of the new state revenues authorized pursuant to subsections 4 and 5 of this section shall not be made to or distributed by the department of economic development to a municipality until all of the following conditions have been satisfied:

(1) The director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee have approved a tax increment financing application made by the municipality for the appropriation of the new state revenues. The municipality shall include in the application the following items in addition to the items in section 99.810:

(a) The tax increment financing district or redevelopment area, including the businesses identified within the redevelopment area;

(b) The base year of state sales tax revenues or the base year of state income tax withheld on behalf of existing employees, reported by existing businesses within the project area prior to approval of the redevelopment project;

(c) The estimate of the incremental increase in the general revenue portion of state sales tax revenue or the estimate for the state income tax withheld by the employer on behalf of new employees expected to fill new jobs created within the redevelopment area after redevelopment;

(d) The official statement of any bond issue pursuant to this subsection after December 23, 1997;

(e) An affidavit that is signed by the developer or developers attesting that the provisions of subdivision (1) of section 99.810 have been met and specifying that the redevelopment area would not be reasonably anticipated to be developed without the appropriation of the new state revenues;

(f) The cost-benefit analysis required by section 99.810 includes a study of the fiscal impact on the state of Missouri; and

(g) The statement of election between the use of the incremental increase of the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area;

(2) The methodologies used in the application for determining the base year and determining the estimate of the incremental increase in the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area shall be approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. Upon approval of the application, the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee shall issue a certificate of approval. The department of economic development may request the appropriation following application approval;

(3) The appropriation shall be either a portion of the estimate of the incremental increase in the general revenue portion of state sales tax revenues in the redevelopment area or a portion of the estimate of the state income tax withheld by the employer on behalf of new employees

who fill new jobs created in the redevelopment area as indicated in the municipality's application, approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. At no time shall the aggregate annual appropriation of the new state revenues for redevelopment areas exceed fifteen million dollars;

(4) Redevelopment plans and projects receiving new state revenues shall have a duration of up to fifteen years, unless prior approval for a longer term is given by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee; except that, in no case shall the duration exceed twenty-three years.

11. In addition to the areas authorized in subsection 9 of this section, the funding authorized pursuant to subsection 4 of this section shall also be available in a federally approved levee district, where construction of a levee begins after December 23, 1997, and which is contained within a county of the first classification without a charter form of government with a population between fifty thousand and one hundred thousand inhabitants which contains all or part of a city with a population in excess of four hundred thousand or more inhabitants.

12. There is hereby established within the state treasury a special fund to be known as the "Missouri Supplemental Tax Increment Financing Fund", to be administered by the department of economic development. The department shall annually distribute from the Missouri supplemental tax increment financing fund the amount of the new state revenues as appropriated as provided in the provisions of subsections 4 and 5 of this section if and only if the conditions of subsection 10 of this section are met. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the Missouri supplemental tax increment financing fund shall be disbursed per project pursuant to state appropriations.

13. All personnel and other costs incurred by the department of economic development for the administration and operation of subsections 4 to 12 of this section shall be paid from the state general revenue fund. On an annual basis, the general revenue fund shall be reimbursed for the full amount of such costs by the developer or developers of the project or projects for which municipalities have made tax increment financing applications for the appropriation of new state revenues, as provided for in subdivision (1) of subsection 10 of this section. The amount of costs charged to each developer shall be based upon the percentage arrived at by dividing the monetary amount of the application made by each municipality for a particular project by the total monetary amount of all applications received by the department of economic development.

Approved May 8, 2003

SB 238 [SCS SB 238]

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

Modifies provisions regarding incorporation or annexation of unincorporated areas in Cass County.

AN ACT to repeal sections 72.080 and 72.130, RSMo, and to enact in lieu thereof two new sections relating to incorporation of cities, with an emergency clause.

SECTION

A. Enacting clause.

72.080. Cities and towns may be incorporated in their respective classes — exception, certain cities must comply with boundary change law — exception, Cass County — owners of majority of certain class of property may object to incorporation, cause of action — definition — contents of petition.
72.130. No incorporation within two miles of existing city, where, exceptions.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 72.080 and 72.130, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 72.080 and 72.130, to read as follows:

72.080. CITIES AND TOWNS MAY BE INCORPORATED IN THEIR RESPECTIVE CLASSES — EXCEPTION, CERTAIN CITIES MUST COMPLY WITH BOUNDARY CHANGE LAW — EXCEPTION, CASS COUNTY — OWNERS OF MAJORITY OF CERTAIN CLASS OF PROPERTY MAY OBJECT TO INCORPORATION, CAUSE OF ACTION — DEFINITION — CONTENTS OF PETITION. — 1. Any unincorporated city, town or other area of the state may, except as otherwise provided in sections 72.400 to 72.420, become a city of the class to which its population would entitle it pursuant to this chapter, and be incorporated pursuant to the law for the government of cities of that class, in the following manner: whenever a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated shall present a petition to the governing body of the county in which such city or town or area is situated, such petition shall describe, by metes and bounds, the area to be incorporated and be accompanied by a plat thereof, shall state the approximate population and the assessed valuation of all real and personal property in the area and shall state facts showing that the proposed city shall have the ability to furnish normal municipal services within a reasonable time after its incorporation is to become effective and praying that the question be submitted to determine if it may be incorporated. If the governing body shall be satisfied that a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated have signed such petition, the governing body shall submit the question to the voters.

2. The county may make changes in the petition to correct technical errors or to redefine the metes and bounds of the area to be incorporated to reflect other boundary changes occurring within six months prior to the time of filing the petition. Petitions submitted by proposing agents may be submitted with exclusions for the signatures collected in areas originally included in the proposal but subsequently annexed or incorporated separately as a city, town or village, although the governing body shall be satisfied as to the sufficiency of the signatures for the final proposed area. If a majority of the voters voting on the question vote for incorporation, the governing body shall declare such city, town or other area incorporated, designating in such order the metes and bounds thereof, and thenceforth the inhabitants within such bounds shall be a body politic and incorporate, by the name and style of "the city of .....", or "the town of .....", and the first officers of such city or town shall be designated by the order of the governing body, who shall hold their offices until the next municipal election and until their successors shall be duly elected and qualified. The county shall pay the costs of the election.

3. In any county with a charter form of government where fifty or more cities, towns and villages have been incorporated, an unincorporated city, town or other area of the state shall not be incorporated except as provided in sections 72.400 to 72.420.

4. Any unincorporated area with a private eighteen hole golf course community and at least a one hundred acre lake located within any county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may incorporate as a city of the class to which its population would entitle it pursuant to this chapter notwithstanding any proposed annexation of the unincorporated area by any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county. If any city of the

third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county proposes annexation by ordinance or resolution of any unincorporated area as defined in this subsection, no such annexation shall become effective until after the qualified voters in the unincorporated area proposed to be incorporated fail to approve the proposed incorporation by a majority vote in the election described in subsection 2 of this section.

[4.**]** **5.** Prior to the election described in subsection 2 of this section, if the owner or owners of either the majority of the commercial or the majority of the agricultural classification of real property in the proposed area to be incorporated object to such incorporation, such owner or owners may file an action in the circuit court of the county in which such unincorporated area is situated, pursuant to **[**the provisions of**]** chapter 527, RSMo, praying for a declaratory judgment requesting that such incorporation be declared unreasonable by the court. As used in this subsection, a "majority of the commercial or agricultural classification" means a majority as determined by the assessed valuation of the tracts of real property in either classification to be determined by the assessments made according to chapter 137, RSMo. The petition in such action shall state facts showing that such incorporation including the real property owned by the petitioners is not reasonable based on the same criteria as specified in subsection 3 of section 72.403 and is not necessary to the proper development of the city or town. If the circuit court finds that such inclusion is not reasonable and necessary, it may enjoin the incorporation or require the petition requesting the incorporation to be resubmitted excluding all or part of the property of the petitioners from the proposed incorporation.

72.130. NO INCORPORATION WITHIN TWO MILES OF EXISTING CITY, WHERE, EXCEPTIONS. — Except as provided in sections 72.400 to 72.420, no city, town, village or other area shall be organized within this state under and by virtue of any law thereof, adjacent to or within two miles of the limits of any city of the first, second, third or fourth classification or any constitutional charter city, unless the city, town, village or other area be in a different county from the city **or unless the city, town, or village is located within any county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants**, except that a city, town, village or other area may be incorporated within the two-mile area if a petition signed by a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated is presented to the existing city requesting that the boundaries of the existing city be extended to include the area proposed to be incorporated and if action taken thereon by the existing city is unfavorable to the petition, or if no action is taken by the existing city on the petition, then the city, town, village or other area may be incorporated after the expiration of one year from the date of the petition and upon a favorable majority vote on the question.

SECTION B. EMERGENCY CLAUSE. — Because of the need to preserve existing property rights for owners of property in unincorporated areas, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 15, 2003

SB 239 [SCS SB 239]

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 National Guard Armory in Sedalia to the Sedalia School District Foundation.

AN ACT to authorize the governor to convey a tract of land owned by the state in the county of Pettis.

SECTION
1. Public sale and conveyance by the state of the National Guard Armory in Sedalia.

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

SECTION 1. PUBLIC SALE AND CONVEYANCE BY THE STATE OF THE NATIONAL GUARD ARMORY IN SEDALIA. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state in the county of Pettis known as the National Guard Armory in Sedalia. The property to be conveyed is more particularly described as follows:

All of the South One Hundred Ten (110) feet of Block Forty-four (44) of Mrs. M. E. Martin and Miss S.E. Smith's Second Addition to the City of Sedalia, Missouri;

And also an easement for light and no other purpose, upon that parcel of ground which adjoins and lies immediately North of the above described tract in said block, and being Fifteen (15) feet in width North and South and Two Hundred Thirty and one-half (230½) feet in length East and West.

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; and whether to utilize a public auctioneer or licensed real estate broker to market the property. Any auctioneer or broker employed to market the property shall receive the customary fee. All costs and fees, directly related to such sale, shall be paid from the proceeds of such sale. The commissioner shall require a minimum bid of ninety-nine thousand nine hundred ninety dollars. If no such bid is received, within six months of opening of the public sale, then the commissioner shall convey the property to the Sedalia School District Foundation for the sum of one dollar.

3. The attorney general shall approve as to form the instrument of conveyance.

Approved May 8, 2003

SB 242 [HCS SS SB 242]

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 amount of a supersedeas bond in tobacco products litigation.

AN ACT to amend chapter 512, RSMo, by adding thereto one new section relating to supersedeas bond requirements.

SECTION
A. Enacting clause.
512.085. Supersedeas bond requirements, tobacco settlement litigation.

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

SECTION A. ENACTING CLAUSE. — Chapter 512, RSMo, is amended by adding thereto one new section, to be known as section 512.085, to read as follows:

512.085. SUPERSEDEAS BOND REQUIREMENTS, TOBACCO SETTLEMENT LITIGATION. — 1. In order to secure and protect the monies to be received as a result of the master settlement agreement, as defined in section 196.1000, RSMo, in civil litigation as to any claim relating to tobacco products involving a signatory, a successor of a signatory, or an affiliate of a signatory to the master settlement agreement, the amount of the required undertaking or bond or equivalent surety to be furnished during the pendency of an appeal or any discretionary appellate review of any judgment granting legal, equitable, or any other form of relief in order to stay the execution thereon during the entire course of appellate review shall be set in accordance with applicable laws or court rules, except that the total appeal bond or equivalent surety that is required of all appellants collectively shall not exceed fifty million dollars, regardless of the value of the judgment. Nothing in this section or any other provision of law shall be construed to eliminate the discretion of the court, for good cause shown, to set the undertaking or bond on appeal in an amount lower than that otherwise established by law.

2. If the appellee proves by a preponderance of the evidence that a party bringing an appeal or seeking a stay, for whom the undertaking has been limited, is purposefully dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding ultimate payment of the judgment, a limitation granted pursuant to subsection 1 of this section may be rescinded and the court may enter such orders as are necessary to prevent dissipation or diversion of the assets. An appellant whose bond has been reduced pursuant to subsection 1 of this section shall:

(1) Provide to the court and appellee the most recent statement of assets and liabilities of the appellant that is filed with any federal, state, or foreign regulatory agency;

(2) Provide to the court and appellee on a quarterly basis any subsequent updated statement of assets and liabilities that is filed with any federal, state, or foreign regulatory agency; and

(3) Agree that it will not dissipate or divert assets outside the ordinary course of its business for the purpose of avoiding ultimate payment of the judgment.

3. The provisions of this section shall apply to all cases pending on or after the effective date of this section.

Approved July 9, 2003

SB 243 [HCS SB 243]

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 State Property Preservation Fund.

AN ACT to amend chapter 37, RSMo, by adding thereto two new sections relating to the creation of the property preservation fund, with an emergency clause.

SECTION
A. Enacting clause.
37.410. Fund created, purpose, payments authorized, when.

37.413. Moneys appropriated from fund deemed to satisfy state's property insurance requirements for state buildings.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 37, RSMo, is amended by adding thereto two new sections, to be known as sections 37.410 and 37.413, to read as follows:

37.410. FUND CREATED, PURPOSE, PAYMENTS AUTHORIZED, WHEN. — 1. There is hereby created a "State Property Preservation Fund" which shall consist of moneys appropriated to the fund by the general assembly for the purpose of repairing or replacing state-owned or leased property damaged from natural or man-made events.

2. Moneys appropriated for the purposes of sections 37.410 to 37.413 shall be available for the payment of any property loss for covered state-owned or leased buildings provided:

(1) A notice of coverage is issued by the commissioner of administration for such property; and

(2) The state is obligated to provide evidence of insurance for such property pursuant to a properly executed agreement, contract, or covenant.

3. The aggregate of payments from the state property preservation fund or other funds appropriated for this purpose shall not exceed the amounts necessary to repair or restore the covered property to its condition prior to the covered loss or for the defeasance of outstanding debt secured by the property. No payment shall be made from the state property preservation fund or other funds appropriated for this purpose unless and until the benefits provided to pay the claim by any other policy of property insurance have been exhausted.

4. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state property preservation fund at the end of an appropriation period shall not be transferred to general revenue.

37.413. MONEYS APPROPRIATED FROM FUND DEEMED TO SATISFY STATE'S PROPERTY INSURANCE REQUIREMENTS FOR STATE BUILDINGS. — Moneys appropriated for the purposes of sections 37.410 to 37.413 shall be deemed as satisfying all provisions contained in any agreement, contract, or covenant requiring the state to purchase or maintain property insurance on state-owned or leased buildings and their contents.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide additional fiscal relief for the state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 9, 2003

SB 248 [CCS HS HCS SS#2 SCS SB 248,100,118,233,247,341 & 420]

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

Revises provisions of various retirement plans.

AN ACT to repeal sections 84.140, 86.251, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1093, 169.712, and 287.845, RSMo, and to enact in lieu thereof twenty-seven new sections relating to the retirement systems and benefits, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
84.140. Vacations, holidays and off-duty time.
86.251. Deferred retirement option plan — election — deposit of retirement allowance in DROP account — termination of participation, when — forms of payment — effect of participation — death of member, payment of funds — accidental disability retirement allowance, effect — interest, amount — approval by IRS — election for monthly survivor annuity, when.
86.394. Board members in active police service, leave to attend educational seminars.
86.445. Incentives for early retirement, authority to administer and pay.
86.676. Incentives for early retirement, board to administer and pay.
86.690. Death of member prior to or following retirement, payments made, how — additional one thousand dollar funeral benefit paid, when.
104.010. Definitions.
104.040. Members to receive credit for prior service — military service to be considered — purchase of credit for service in the armed forces, cost, interest rate, computation — certain creditable prior service, purchase of, effect — nonfederal public employment, purchase of credit for service.
104.110. Disability benefits, who entitled, how calculated, terminated when — medical examination required, when — proof of application for Social Security benefits — death benefit, not payable, when — board to establish definitions — annuity benefits, accrual, election — death benefit, eligibility, when.
104.271. Retirement age, certain employees — "eighty and out".
104.340. Creditable prior service and prior service credits — what is included — special consultants, requirements, compensation.
104.370. General assembly members entitled to normal annuity, requirements, limitation — election to state office, effect — certain members entitled to creditable prior service — former members as special consultants, compensation — elected county officials, prior service.
104.460. Board officer, selection, terms — elected members campaign disclosure procedure, penalty — executive director and staff, appointment, salaries, expenses — service of process to be served on director or director's designee.
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1. Certain retirees eligible to apply for medical coverage benefits, amount of contribution, limitations.
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3. Workers memorial fund, tax refund contribution may be designated — director's duties.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 84.140, 86.251, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1093, 169.712, and 287.845, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 84.140, 86.251, 86.394, 86.445,

86.676, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.806, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1093, 168.303, 169.712, 287.845, 1, 2, and 3, to read as follows:

84.140. VACATIONS, HOLIDAYS AND OFF-DUTY TIME. — The boards may grant every member of the police force who has served for one year or more a total of three weeks vacation each year with pay, and each member of the police force who has served the department for twelve years or more may receive four weeks vacation each year with pay, and each member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay**, and each member of the police force who has served the department for thirty years or more and is eligible to participate in the deferred retirement option plan shall receive six weeks vacation each year with pay**; however the board may grant an additional week of paid vacation to members after one year of service. All members of the police force may receive fifteen holidays with pay, however the board may grant additional holidays with pay, and one hundred four days off duty each year with pay, and the boards may from time to time grant additional days off duty each year with pay when in the judgment of the boards, the granting thereof will not materially impair the efficiency of the department.

86.251. DEFERRED RETIREMENT OPTION PLAN — ELECTION — DEPOSIT OF RETIREMENT ALLOWANCE IN DROP ACCOUNT — TERMINATION OF PARTICIPATION, WHEN — FORMS OF PAYMENT — EFFECT OF PARTICIPATION — DEATH OF MEMBER, PAYMENT OF FUNDS — ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, EFFECT — INTEREST, AMOUNT — APPROVAL BY IRS — ELECTION FOR MONTHLY SURVIVOR ANNUITY, WHEN. — 1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members who are eligible for retirement but who have not terminated employment as police officers and who have not actually retired may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to postpone actual retirement, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall postpone actual retirement, shall continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any mandatory contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had actually retired instead of entering DROP shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's termination of employment as a police officer and actual retirement. Cost-of-living increases, if any, for any period following the member's termination of employment as a police officer and actual retirement shall be applied only to monthly service retirement payments made following termination of employment as a police officer and actual retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents' benefits. Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service retirement allowance

or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.

4. A member shall cease participation in the DROP upon the termination of the member's employment as a police officer and actual retirement, or at the end of the five-year period commencing on the first day of the member's participation in the DROP, or as of the effective date, but in no event prior to October 1, 2001, of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon the member's termination of employment as a police officer and actual retirement, the member shall elect to receive the value of the member's DROP account, in one of the following forms of payment:

(a) A lump sum payment; or

(b) Equal monthly installments over a ten-year period.

Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the DROP does not terminate employment **and actually retires** as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 [and actually retires] at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall notify the police commissioners to begin deducting mandatory contributions from the member's salary and the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the member pursuant to subsection 4 of section 86.253.

8. If a member dies prior to termination of employment as a police officer and actual retirement while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the remaining balance of the member's DROP account shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made in a lump sum within sixty days after receipt by the board of trustees of evidence and proof of the death of a member. In addition, the member's mandatory contributions, if any, that were not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.

9. If a member [has elected to participate in the DROP and during such participation period] applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a

DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

10. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the last day of each plan year beginning after DROP participation begins, the member's DROP account balance, determined as of the last day of the prior plan year, shall be credited with interest at the investment rate earned by the assets of the retirement system for such prior plan year. If distribution of the member's DROP account balance is made in a lump sum under subsection 4 or 8 of this section, interest for the plan year of distribution shall be credited on the ending balance for the prior plan year at the investment rate earned on the assets of the retirement system for the prior plan year, in proportion to the part of the plan year preceding the date of the member's termination of employment or death, whichever is earlier. If the member's DROP account is paid in equal monthly installments pursuant to subsection 4 of this section, interest during the installment period shall be credited as of the last day of each plan year ending after installment payment begins on the account balance as of the first or last day of the plan year, whichever is lower, at the investment rate earned by the assets of the system for the prior plan year. Interest for the year in which the final installment is paid shall be credited on the balance remaining after the final installment is paid, at the investment rate earned on the assets of the system for the prior plan year, in proportion to the part of the plan year preceding payment of the final installment. Any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed.

11. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or assets credited to DROP accounts established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any provision of this section if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until the surviving spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date of the member's death. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date of the member's death.

86.394. BOARD MEMBERS IN ACTIVE POLICE SERVICE, LEAVE TO ATTEND EDUCATIONAL SEMINARS. — Each member of the retirement board who is in active service with the police department of a city as either a police officer, as defined in section 86.370, or as an employee, as defined in section 86.600, shall be granted authorized leave with pay by such police department to attend any and all educational seminars and like functions that have been authorized by the retirement board, including travel time to and from such functions, not to exceed ten days in any calendar year. Leave granted under this section shall not reduce vacation or other authorized leave time to which such member may be entitled without reference to this section.

86.445. INCENTIVES FOR EARLY RETIREMENT, AUTHORITY TO ADMINISTER AND PAY. — If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system pursuant to sections 86.370 to 86.497, in addition to such other benefits as such members or their beneficiaries are entitled to receive pursuant to sections 86.370 to 86.497 provided such city shall so request and shall agree to increase the city's contribution pursuant to section 86.477 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contributions pursuant to section 86.470, to provide all other benefits provided pursuant to sections 86.370 to 86.497.

86.676. INCENTIVES FOR EARLY RETIREMENT, BOARD TO ADMINISTER AND PAY. — If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system pursuant to sections 86.600 to 86.790, in addition to such other benefits as such members or their beneficiaries are entitled to receive pursuant to sections 86.600 to 86.790, provided such city shall so request and shall agree to increase said city's contribution pursuant to section 86.760 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contribution pursuant to section 86.760, to provide all other benefits provided pursuant to sections 86.600 to 86.790.

86.690. DEATH OF MEMBER PRIOR TO OR FOLLOWING RETIREMENT, PAYMENTS MADE, HOW — ADDITIONAL ONE THOUSAND DOLLAR FUNERAL BENEFIT PAID, WHEN. — 1. Upon death after August 28, 2001, of a member for any cause prior to retirement, the following amounts shall be payable subject to subsection 5 of this section, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

(6) No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.

2. Upon death following retirement for any cause after August 28, 2001, of a member who has not elected the optional annuity pursuant to section 86.650, the member's surviving spouse shall receive a pension payable for life, equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage. If there be no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualifies for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

4. Should the total amount paid from the retirement system to a member, the member's surviving spouse **[**and**],** any other beneficiary of the member**, and the funeral benefit under subsection 6 of this section** be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

6. Upon receipt of the proper proof of death of a member in service after August 28, 2003, or the death of a member in service on or after August 28, 2003, who dies after having been retired and pensioned, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.

104.010. DEFINITIONS. — 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual account and interest allowed thereon;

(2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

(3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial tables and interest, is equal in value to a certain amount or other benefit;

(4) "Actuarial tables", the actuarial tables approved and in use by a board at any given time;

(5) "Actuary", the actuary who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who is employed by a board at any given time;

(6) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, this chapter;

(7) "Average compensation", the average compensation of a member for the thirty-six consecutive months of service prior to retirement when the member's compensation was greatest; or if the member is on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of compensation the member would have received may be used, as reported and verified by the employing department; or if the member had less than thirty-six months of service, the average annual compensation paid to the member during the period up to thirty-six months for which the member received creditable service when the member's compensation was the greatest; or if the member is on military leave, the amount of compensation the member would have received may be used as reported and verified by the employing department or, if such amount is not determinable, the amount of the employee's average rate of compensation during the twelve-month period immediately preceding such period of leave, or if shorter, the period of employment immediately preceding such period of leave;

(8) "Beneficiary", any person entitled to or nominated by a member or retiree who may be legally entitled to receive benefits pursuant to this chapter;

(9) "Biennial assembly", the completion of no less than two years of creditable service or creditable prior service by a member of the general assembly;

(10) "Board of trustees", "board", or "trustees", a board of trustees as established for the applicable system pursuant to this chapter;

(11) "Chapter", sections 104.010 to 104.800;

(12) "Compensation":

(a) All salary and wages payable out of any state, federal, trust, or other funds to an employee for personal services performed for a department; but including only amounts for which contributions have been made in accordance with section 104.436, or section 104.070, whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid after the member's termination of employment unless such amounts paid after such termination are a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000, or any other one-time payments made as a result of such payroll system;

(b) All salary and wages which would have been payable out of any state, federal, trust or other funds to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) Effective December 31, 1995, compensation in excess of the limitations set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

(13) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by a board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(14) "Creditable prior service", the service of an employee which was either rendered prior to the establishment of a system, or prior to the date the employee last became a member of a system, and which is recognized in determining the member's eligibility and for the amount of the member's benefits under a system;

(15) "Creditable service", the sum of membership service and creditable prior service, to the extent such service is standing to a member's credit as provided in this chapter; except that

in no case shall more than one day of creditable service or creditable prior service be credited any member for any one calendar day of eligible service credit as provided by law;

(16) "Deferred normal annuity", the annuity payable to any former employee who terminated employment as an employee or otherwise withdrew from service with a vested right to a normal annuity, payable at a future date;

(17) "Department", any department or agency of the executive, legislative or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;

(18) "Disability benefits", benefits paid to any employee while totally disabled as provided in this chapter;

(19) "Early retirement age", a member's attainment of fifty-five years of age and the completion of ten or more years of creditable service, except for uniformed members of the water patrol;

(20) "Employee":

(a) Any elective or appointive officer or person employed by the state who is employed, promoted or transferred by a department into a new or existing position and earns a salary or wage in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, including each member of the general assembly but not including any patient or inmate of any state, charitable, penal or correctional institution. Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment. However, persons who are members of the public school retirement system and who are employed by a state agency other than an institution of higher learning shall be deemed employees for purposes of participating in all insurance programs administered by a board established pursuant to section 104.450. This definition shall not exclude any employee as defined in this subdivision who is covered only under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter, the term "employee" shall include:

a. Persons who are currently receiving annuities or other retirement benefits from some other retirement or benefit fund, so long as they are not simultaneously accumulating creditable service in another retirement or benefit system which will be used to determine eligibility for or the amount of a future retirement benefit;

b. Persons who have elected to become or who have been made members of a system pursuant to section 104.342;

(b) Any person who has performed services in the employ of the general assembly or either house thereof, or any employee of any member of the general assembly while acting in the person's official capacity as a member, and whose position does not normally require the person to perform duties during at least one thousand hours per year, with a month of service being any monthly pay period in which the employee was paid for full-time employment for that monthly period;

(c) "Employee" does not include special consultants employed pursuant to section 104.610;

(d) As used in this chapter, the hours governing the definition of employee shall be applied only from August 13, 1988, forward;

(e) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(21) "Employer", a department of the state;

(22) "Executive director", the executive director employed by a board established pursuant to the provisions of this chapter;

(23) "Fiscal year", the period beginning July first in any year and ending June thirtieth the following year;

(24) "Full biennial assembly", the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year;

(25) "Fund", the benefit fund of a system established pursuant to this chapter;

(26) "Interest", interest at such rate as shall be determined and prescribed from time to time by a board;

(27) "Member", as used in sections 104.010 to 104.272 or **[**104.600**]** **104.601** to 104.800 shall mean a member of the highways and transportation employees' and highway patrol retirement system without regard to whether or not the member has been retired. "Member", as used in this section and sections 104.312 to 104.800, shall mean a member of the Missouri state employees' retirement system without regard to whether or not the member has been retired;

(28) "Membership service", the service after becoming a member that is recognized in determining a member's eligibility for and the amount of a member's benefits under a system;

(29) "Military service", all active service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health Service or any women's auxiliary thereof; and service in the Army national guard and Air national guard when engaged in active duty for training, inactive duty training or full-time national guard duty, and service by any other category of persons designated by the President in time of war or emergency;

(30) "Normal annuity", the annuity provided to a member upon retirement at or after the member's normal retirement age;

(31) "Normal retirement age", an employee's attainment of sixty-five years of age and the completion of four years of creditable service or the attainment of age sixty-five years of age and the completion of five years of creditable service by a member who has terminated employment and is entitled to a deferred normal annuity or the member's attainment of age sixty and the completion of fifteen years of creditable service, except that normal retirement age for uniformed members of the highway patrol shall be fifty-five years of age and the completion of four years of creditable service and uniformed employees of the water patrol shall be fifty-five years of age and the completion of four years of creditable service or the attainment of age fifty-five and the completion of five years of creditable service by a member of the water patrol who has terminated employment and is entitled to a deferred normal annuity and members of the general assembly shall be fifty-five years of age and the completion of three full biennial assemblies. Notwithstanding any other provision of law to the contrary, a member of the highways and transportation employees' and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least **[**fifty**]** **forty-eight** years of age;

(32) "Payroll deduction", deductions made from an employee's compensation;

(33) "Prior service credit", the service of an employee rendered prior to the date the employee became a member which service is recognized in determining the member's eligibility for benefits from a system but not in determining the amount of the member's benefit;

(34) "Reduced annuity", an actuarial equivalent of a normal annuity;

(35) "Retiree", a member who is not an employee and who is receiving an annuity from a system pursuant to this chapter;

(36) "System" or "retirement system", the highways and transportation employees' and highway patrol retirement system, as created by sections 104.010 to 104.270, or sections **[**104.600**]** **104.601** to 104.800, or the Missouri state employees' retirement system as created by sections 104.320 to 104.800;

(37) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway patrol who normally appear in uniform;

(38) "Uniformed members of the water patrol", employees of the Missouri state water patrol of the department of public safety who are classified as water patrol officers who have taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those peace officer powers given by the provisions of chapter 306, RSMo;

(39) "Vesting service", the sum of a member's prior service credit and creditable service which is recognized in determining the member's eligibility for benefits under the system.

2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by reference.

104.040. MEMBERS TO RECEIVE CREDIT FOR PRIOR SERVICE — MILITARY SERVICE TO BE CONSIDERED — PURCHASE OF CREDIT FOR SERVICE IN THE ARMED FORCES, COST, INTEREST RATE, COMPUTATION — CERTAIN CREDITABLE PRIOR SERVICE, PURCHASE OF, EFFECT — NONFEDERAL PUBLIC EMPLOYMENT, PURCHASE OF CREDIT FOR SERVICE. — 1. Any member shall be entitled to creditable prior service within the meaning of sections 104.010 to 104.270 for all service in the United States Army, Navy, or other armed services of the United States, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee immediately prior to his or her entry into the armed services and became an employee of the state within ninety days after termination of such service by an honorable discharge or release to inactive status; the requirement of section 104.010 of duties during not less than one thousand hours for status as an "employee" shall not apply to persons who apply for creditable prior service pursuant to the provisions of this section.

2. Any member of the system who served as an employee prior to the original effective date of sections 104.010 to 104.270, but was not an employee on that date, shall be entitled to creditable prior service that such member would have been entitled to had such member become a member of the retirement system on the date of its inception if such member has, or hereafter attains, one year of continuous membership service.

3. Any employee who completes one continuous year of creditable service in the system shall receive credit for service with a state department, if such service has not otherwise been credited.

4. Any member who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after his or her discharge under honorable conditions may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the armed forces, but not to exceed four years, if the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. However, if the member is eligible to receive retirement credits in a United States military service retirement system, the member shall be permitted to purchase creditable prior service equivalent to his or her service in the armed services, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had the member been a member for the period for which the member is electing to purchase credit and had his or her compensation during such period of membership been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from date of employment from which the member could first receive creditable service to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to this subsection shall be treated by the retirement system as would contributions made by the state and shall not be

subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this subsection.

5. Any uniformed member of the highway patrol who served as a certified police officer prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the police force, but not to exceed four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

6. Any uniformed member of the highway patrol who served as a nonfederal full-time public employee in this state prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service, but not to exceed four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

104.110. DISABILITY BENEFITS, WHO ENTITLED, HOW CALCULATED, TERMINATED WHEN — MEDICAL EXAMINATION REQUIRED, WHEN — PROOF OF APPLICATION FOR SOCIAL SECURITY BENEFITS — DEATH BENEFIT, NOT PAYABLE, WHEN — BOARD TO ESTABLISH DEFINITIONS — ANNUITY BENEFITS, ACCRUAL, ELECTION — DEATH BENEFIT, ELIGIBILITY, WHEN. — 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member. **Effective September 1, 2003, no**

employee is eligible for or shall request or apply for the disability benefit provided pursuant to this subsection.

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the amount required by subsections 1, 2, 7, and 9 of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies for disability benefits provided pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and 7 of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

8. Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

9. Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section **[**104.130**]** **104.103**.

10. The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

11. Any member who qualified for disability benefits pursuant to subsection 2 or subsection 7 of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

12. A member who continues to be disabled as provided in subsection 2 or subsection 7 of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and 7 of this section shall be established by the board. A member who is eligible to retire and does retire

while receiving disability benefits pursuant to subsections 2 and 7 of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

13. Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

14. Any member receiving disability benefits pursuant to subsection 1, subsection 2 or subsection 7 of this section shall be eligible to receive death benefits pursuant to the provisions of subsection 1 of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection 2 of section 104.140.

15. The board is authorized to contract for **benefits in lieu of** the benefits provided pursuant to **[**subsections 1 and 2 of**]** this section.

16. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:

(1) The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any employee who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the employee's county of residence; and

(3) The board and the system shall not be liable for the disability benefits provided by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the employee has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.

17. An employee may elect to waive the receipt of any disability benefit provided for pursuant to this section at any time.

104.271. RETIREMENT AGE, CERTAIN EMPLOYEES — "EIGHTY AND OUT". — Notwithstanding any other provision of law to the contrary, a member of the Missouri transportation department and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least **[**fifty**]** **forty-eight** years of age.

104.340. CREDITABLE PRIOR SERVICE AND PRIOR SERVICE CREDITS — WHAT IS INCLUDED — SPECIAL CONSULTANTS, REQUIREMENTS, COMPENSATION. — 1. Any member, on the first day of the first month following the original effective date of sections 104.310 to 104.540, September 1, 1957, shall be entitled to creditable prior service for the purpose of sections 104.310 to 104.620 for all active military service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard and members of the United States Public Health Service when in the active military service, or any women's auxiliary thereof in time of active

armed warfare, if such member was a state employee immediately prior to the member's entry into the armed services and became an employee of the state within ninety days after termination of such service under honorable conditions or release to inactive status in a reserve component of the armed forces. This includes:

(1) Members of the reserve component of the armed forces (National Guard of the United States, United States Army Reserve, Air National Guard of the United States, United States Air Force Reserve, United States Naval Reserve, United States Marine Corps Reserve, United States Coast Guard);

(2) Reserve components existing prior and subsequent to the original effective date of sections 104.310 to 104.540; and

(3) The reserve of the United States Public Health Service, while in the active military service of the United States.

2. Any former full-time employee of a state board, whether unassigned or assigned to the governor, who becomes a member within one year of termination of employment with the board, shall be entitled to creditable prior service not to exceed eight years for service rendered, provided the member had not become vested in a city or county retirement system and has or attains one or more years of continuous service.

3. Notwithstanding any other provision of law to the contrary, any employee of a political subdivision who becomes a state employee, or gains eligibility to become a member, by an act, or acts, of the general assembly after August 13, 1986, making such employment state employment shall be entitled only to prior service credit for such employment with a political subdivision. Such prior service credit, which cannot exceed eight years, shall be used in the determination of eligibility for benefits pursuant to the provisions of sections 104.310 to 104.612 but not in determining the amount of benefits, if the person makes application to the board for such prior service credit within ninety days of becoming a member of the Missouri state employees' retirement system, and establishes such service to the satisfaction of the board; except that such prior service credit shall not be used for the purposes of computing the minimum benefit provided by section 104.615.

4. Any member who had performed active service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to **last** becoming a member, or who is otherwise ineligible under subsection 1 of this section or other provisions of this chapter, and who became a member after the person's discharge under honorable conditions may elect, prior to retirement, to purchase all of the member's creditable prior service equivalent to such service in the armed forces, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased**[**, and an affidavit so stating shall be filed by the member with the retirement system**]**. However, if the member is eligible to receive retirement credits in a United States military service retirement system, the member shall be permitted to purchase creditable prior service equivalent to such service in the armed forces, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's submission of appropriate documentation verifying the member's dates of active service and by paying to the retirement system an amount equal to what would have been contributed by the state in the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's compensation during such period of membership been the same as the annual salary rate at which the member was initially employed by a department, with the calculations based on the contribution rate in effect on the date of employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election under this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service under this subsection shall be treated by the retirement system as would contributions made by the state

and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this subsection.

5. Any member who terminated employment prior to August 13, 1986, who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after the person's discharge under honorable conditions shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board of the system or the court from which the person retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services, the consultant shall be eligible to purchase, prior to retirement, creditable prior service as provided in this subsection.

6. Any member who is an employee on or after June 30, 1988, shall be entitled to creditable prior service for all full-time service rendered at Lincoln University prior to June 30, 1988, if such service is established to the satisfaction of the board, provided such member elects in writing to forfeit all rights accrued under the Lincoln University retirement plan for such service, and provided such service is not now credited the member under the Missouri state employees' retirement system.

7. Any person who is an employee on or after August 28, 1989, and who has been denied credit for any service because the person was a member of some other retirement system or benefit fund to which the state was a contributor shall receive creditable prior service for all the service rendered which would have otherwise been earned during such period of service by the person except for the denial of credit; however, in no event shall any person receive service credit for the same period of service under more than one retirement system.

8. Upon application to the board, any member or former member not yet retired previously employed by the Missouri institute of psychiatry prior to July 1, 1974, and who by virtue of such employment was a member of a retirement system or plan other than the Missouri state employees' retirement system but did not become vested in that system or plan shall receive creditable prior service for such service, provided that such service is not used for the calculation of benefits under any other retirement system or plan, excluding Social Security, and that such service is established to the satisfaction of the board.

9. Any retired member previously employed by the Missouri institute of psychiatry prior to July 1, 1974, and who by virtue of such employment was a member of a retirement system or plan other than the Missouri state employees' retirement system but did not become vested in that system or plan may make application to be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As compensation the special consultant shall receive beginning the month next following such appointment an amount equal to the retirement benefit the member would have been receiving had such service been included in the original retirement benefit calculation, provided that such service is not used for the calculation of benefits under any other retirement system or plan, excluding Social Security, and that such service is established to the satisfaction of the board.

10. Notwithstanding any other provisions of law to the contrary, if a former employee terminated employment before January 1, 1988, and such former employee had also served as a board member pursuant to the provisions of section 329.190, RSMo, such former employee shall upon application to the board of trustees of the Missouri state employees' retirement system be made a special consultant on the problems of retirement and shall upon request of the board of trustees give opinions in writing or orally in response to such request. As compensation for such services, the former employee shall receive creditable service for all time the former employee was employed by the state and the time the former employee served on the board pursuant to the provisions of section 329.190, RSMo, provided that such service is not used for vesting in any other public employee retirement system.

104.370. GENERAL ASSEMBLY MEMBERS ENTITLED TO NORMAL ANNUITY, REQUIREMENTS, LIMITATION — ELECTION TO STATE OFFICE, EFFECT — CERTAIN MEMBERS ENTITLED TO CREDITABLE PRIOR SERVICE — FORMER MEMBERS AS SPECIAL CONSULTANTS, COMPENSATION — ELECTED COUNTY OFFICIALS, PRIOR SERVICE. — 1. Any member of the general assembly who has served at least three full biennial assemblies as a member of the general assembly and who meets the conditions for retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred fifty dollars multiplied by the number of biennial assemblies in which such member has served. For the purpose of calculating benefits due under this subsection:

(1) Service in any portion of a biennial assembly after service in at least three biennial assemblies shall be credited as service in a full biennial assembly; and

(2) Any person who is elected as a member of the general assembly at a special election and who serves the remainder of that term to which he was elected at such special election shall receive credit for a full biennial assembly for such service.

2. If a member of either retirement system established by this chapter, who has served at least three full biennial assemblies as a member of the general assembly, is elected to a state office, appointed to a state office, or employed by the state before, after, or before and after his service as a member of the general assembly, the member may, at the end of such employment, receive upon retirement, at or after the member's normal retirement age, the amount which shall be due the member for creditable service as a member of the general assembly. If he has not fully vested as a result of his employment as other than a member of the general assembly, he shall be credited with additional service as a legislator just as though all of the service combined had in fact been rendered as a member of the general assembly and receive a normal annuity. If the member retires before normal retirement age, the member shall receive the actuarial reduction approved by the board. Nothing in this section shall allow any member to simultaneously accumulate service in more than one state retirement system as a member of the general assembly and an employee or state officer**; provided that, any member who otherwise would accrue simultaneous creditable service as a member of the general assembly and as an employee or state officer, may elect prior to retirement to receive such simultaneous creditable service in the state retirement plan that covered the member's service as an employee or state officer in lieu of receiving such creditable service as a member of the general assembly pursuant to subdivision (1) of subsection 1 of this section. Any member who makes such election shall receive creditable service for the member's remaining legislative service equal to the pro rata portion of the biennial assembly actually served by such member. The provisions of this subsection providing an election with regard to simultaneous creditable service shall apply to any member of the general assembly who is employed on or after August 28, 2003, or any former member of the general assembly who is employed as an employee or state officer on or after August 28, 2003. The term "state officer" as used in this subsection includes a statewide elected official as described in section 104.371, an administrative law judge or legal advisor as defined in section 287.812, RSMo, or a judge as defined in section 476.515, RSMo**.

3. A member who has fully vested as a state officer or employee and has service as a member of the general assembly of less than three full biennial assemblies, upon retirement, at or after the member's normal retirement age, shall be credited with additional service as a state officer or employee for the time he served as a member of the general assembly. If the member retires before normal retirement age, he shall receive the actuarial reduction approved by the board.

4. Any member of the general assembly who has served at least three full biennial assemblies and whose service as such terminates on or after October 1, 1984, and who served as an employee, as that term is defined in section 104.010, prior to the respective dates on which the retirement systems to which such sections apply originally became effective, but was not such an employee on such dates, shall be entitled to the creditable prior service that such employee

would have been entitled to in either or both systems had such employee become a member on the date of inception of either or both systems. The maximum number of years of creditable prior service to which a member may become entitled pursuant to this section is less than ten years. The benefits attributable to such service shall be calculated as if all service was rendered as a member of the general assembly.

5. Any former member of the general assembly who is receiving benefits under the provisions of this section shall, upon written request to the board, be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement and other related matters and shall upon request of the board give opinions in writing or orally in response to such requests. As compensation for such services, the retired member shall have his retirement benefits recalculated the first of the month next following his application under this subsection to reflect that any portion of a year of creditable service shall be counted as one full biennial session.

6. Any retired member who is receiving benefits from the system and is elected to the general assembly but does not serve at least three biennial sessions shall receive creditable service for the time he served in the general assembly and upon leaving the general assembly shall have an additional benefit calculated using such service.

7. Benefits paid for service credited to legislative service shall be funded as provided in section 104.436.

8. Any former member of the general assembly not retired on August 28, 1994, who is fifty-five years of age or more and who has creditable service in the general assembly of at least three full biennial assemblies and has not used such services as creditable services in any other retirement system shall be made and employed by the board as a special consultant on the problems related to retirement and shall, when requested by the board, give opinions either written or orally on such problems. As compensation for such duties the former member of the general assembly shall be entitled to retire with a normal annuity effective the first of the month following receipt by the board of a written application.

9. Notwithstanding any other law to the contrary, any active member of the Missouri state employees' retirement system who is vested, on August 28, 1994, under the provisions of subsection 1 of this section, and who has served as an elected county official and who, by virtue of such service was a member of a retirement system other than the Missouri state employees' retirement system but was not vested in such other retirement system, or was not a member of any retirement system, shall receive creditable prior service in the Missouri state employees' retirement system for such previous service as an elected county official.

104.460. BOARD OFFICER, SELECTION, TERMS — ELECTED MEMBERS CAMPAIGN DISCLOSURE PROCEDURE, PENALTY — EXECUTIVE DIRECTOR AND STAFF, APPOINTMENT, SALARIES, EXPENSES — SERVICE OF PROCESS TO BE SERVED ON DIRECTOR OR DIRECTOR'S DESIGNEE. — 1. The board shall elect by secret ballot one member as chairman and one member as vice chairman **[**in January**]** **during the first board meeting** of each year. The chairman shall preside over meetings of the board and perform such other duties as may be required by action of the board. The vice chairman shall perform the duties of the chairman in the absence of the latter or upon the chairman's inability or refusal to act. Each person who was elected to membership on the board of trustees or who is a candidate for membership on the board of trustees shall file with the **[**commissioner of administration**]** **Missouri ethics commission** a campaign finance disclosure form showing:

(1) The amounts and sources of all contributions received for the purpose of supporting such person's candidacy or for the purpose of opposing any other candidate; and

(2) The amounts and recipients of all expenditures made for the purpose of supporting such person's candidacy or for the purpose of opposing any other candidate.

The disclosure reports shall be filed not later than the fifteenth day prior to the date of the election for the period closing on the twentieth day prior to the election, and not later than the thirtieth day

after the date of the election for the period from the nineteenth day prior to the date of the election to the twenty-fifth day after the date of the election. Such reports shall be public records and shall be made available by the **[**commissioner of administration**]** **Missouri ethics commission** during normal business hours. Any person who purposefully fails or refuses to file the reports required by this subsection is guilty of a class A misdemeanor.

2. The board shall appoint an executive director who shall be the executive officer of the system and who shall have charge of the offices, records, and employees of the system, subject to the direction of the board. Other employees of the system shall be chosen only upon the recommendation of the executive director.

3. All employees of the system shall be both state employees and members of the system. Except by the unanimous vote of the board, no person who has served as a trustee of the board may become an employee of the system until four years have expired between the date of his or her resignation, termination, or other removal as trustee and the date of his or her appointment as an employee of the system.

4. Employees of the system shall receive such salaries as shall be fixed by the board and their necessary travel expense within and without the state as shall be authorized by the board.

5. Any summons or other writ issued by the courts of the state shall be served upon the executive director or, in his or her absence, on the executive director's designee.

104.517. LIFE INSURANCE BENEFITS, EMPLOYEES COVERED — CERTAIN DEPARTMENTS AND HIGHWAY PATROL MAY ELECT COVERAGE — AMOUNT — ADDITIONAL INSURANCE BY PAYROLL DEDUCTIONS, MAXIMUM — RETENTION OF COVERAGE ON RETIREMENT, COST DEDUCTED FROM RETIREMENT BENEFITS — DEATH BENEFITS FOR SPECIAL CONSULTANTS. — 1. The board shall provide or contract, or both, for life insurance benefits for employees pursuant to sections 104.320 to 104.540, persons covered by sections 287.812 to 287.855, RSMo, and for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and at the election of the state highways and transportation commission shall include employees who are members of the state transportation department employees' and highway patrol retirement system **[**as follows:

(1)**]**. Employees are entitled to fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in an amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee.

2. A conversion of such life insurance benefits shall be available. However, a member eligible to receive a lump sum death benefit as provided in subsection 4 of section 104.515 shall be entitled to convert any amount of terminated life insurance benefit in excess of the benefit provided in said section.

3. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees

determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased on or after January 1, 1998, **but prior to January 1, 2004,** is that amount which equals six times the amount of the person's annual rate of pay, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars. **The maximum amount of additional life insurance which may be so purchased on or after January 1, 2004, is an amount to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide the insurance itself.** The selection of a private insurance company to provide this life insurance shall be on the basis of competitive bidding.

(2) Any person defined in subdivision (1) of this subsection retiring on or after September 1, 1988, may retain an amount not to exceed ten thousand dollars of life insurance following the date of his or her retirement if such person makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Any person, defined in subdivision (1) of this subsection, retiring on or after May 1, 1996, may retain an amount not to exceed sixty thousand dollars of life insurance following the date of the person's retirement if such person makes written application for such life insurance at the same time such person applies to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's monthly retirement benefits.

(3) Effective January 1, 1998, in addition to the life insurance authorized in subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both the person's children and the person's spouse at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

4. The highways and transportation employees' and highway patrol retirement system shall provide or contract or both for the death benefit for special consultants in subsection 4 of section 104.515. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to administer the death benefit. If the state highways and transportation commission accepts the obligation to administer the death benefit, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any costs or expenses of administering the death benefit.

5. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide life insurance provided for pursuant to this section:

(1) The obligation to provide such life insurance shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any member who has been denied life insurance benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence; and

(3) The board and the system shall not be liable for life insurance benefits provided by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to life insurance benefits or the denial of life insurance benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for life insurance benefits and the insurer or service organization is unable to satisfy that judgment.

104.806. CERTAIN EMPLOYEES, TRANSFERRED TO MODOT, NOT TO BECOME MEMBERS OF MODOT RETIREMENT SYSTEM UNLESS ELECT TO, PROCEDURE. — 1. Employees who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05, 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 July 1, 2003. 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, 2004.

2. Employees who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05 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 July 1, 2003. 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, 2004.

3. For any employee who elects pursuant to 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, 2003, an amount actuarially determined to equal the liability at the time of the transfer to the extent that liability is funded as of the most recent actuarial valuation, not to exceed one hundred percent.

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 pursuant to subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the only medical coverage available for the employee shall be the medical coverage provided in section 104.270. The effective date for commencement of medical coverage shall be January 1, 2004. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.

104.1003. DEFINITIONS. — Unless a different meaning is plainly required by the context, the following words and phrases as used in sections 104.1003 to 104.1093 shall mean:

(1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

(2) "Actuary", an actuary who is experienced in retirement plan financing and who is either a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974;

(3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds provided for in, or authorized by, sections 104.1003 to 104.1093;

(4) "Annuity starting date" means the first day of the first month with respect to which an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;

(5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;

(6) "Board of trustees", "board", or "trustees", a governing body or bodies established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

(7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become a member of the closed plan, but the closed plan shall continue to function for the benefit of persons covered by and remaining in the closed plan and their beneficiaries;

(8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by the board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(9) "Credited service", the total credited service to a member's credit as provided in sections 104.1003 to 104.1093;

(10) "Department", any department or agency of the executive, legislative, or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;

(11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and the completion of at least five years of credited service;

(12) "Effective date", July 1, 2000;

(13) "Employee" shall be any person who is employed by a department and is paid a salary or wage by a department in a position normally requiring the performance of duties of not less than one thousand hours per year, provided:

(a) The term "employee" shall not include any patient or inmate of any state, charitable, penal or correctional institution, or any person who is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

(b) The term "employee" shall be modified as provided by other provisions of sections 104.1003 to 104.1093;

(c) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(d) Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment;

(14) "Employer", a department;

(15) "Executive director", the executive director employed by a board established pursuant to the provisions of sections 104.1003 to 104.1093;

(16) "Final average pay", the average pay of a member for the thirty-six full consecutive months of service before termination of employment when the member's pay was greatest; or if the member was on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of pay the member would have received but for such leave of absence as reported and verified by the employing department; or if the member was employed for less than thirty-six months, the average monthly pay of a member during the period for which the member was employed;

(17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to 104.1093;

(18) "Investment return", **or** "interest", rates as shall be determined and prescribed from time to time by a board;

(19) "Member", a person who is included in the membership of the system, as set forth in section 104.1009;

(20) "Normal retirement eligibility", a member's attainment of at least sixty-two years of age and the completion of at least five or more years of credited service or, the attainment of at least **[**fifty**]** **forty-eight** years of age with a total of years of age and years of credited service which is at least eighty or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provisions of section 104.080, the mandatory retirement age and completion of five years of credited service or, the attainment of at least **[**fifty**]** **forty-eight** years of age with a total of years of age and years of credited service which is at least eighty;

(21) "Pay" shall include:

(a) All salary and wages payable to an employee for personal services performed for a department; but excluding:

a. Any amounts paid after an employee's employment is terminated, unless the payment is made as a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000;

b. Any amounts paid upon termination of employment for unused annual leave or unused sick leave;

c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations; and

d. Any nonrecurring single sum payments;

(b) All salary and wages which would have been payable to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) All salary and wages which would have been payable to an employee on a medical leave due to employee illness, as reported and verified by the employing department;

(d) For purposes of members of the general assembly, pay shall be the annual salary provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

(22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the person's employment record;

(23) "State", the state of Missouri;

(24) "System" or "retirement system", the Missouri state employees' retirement system or the transportation department and highway patrol retirement system, as the case may be;

(25) "Vested former member", a person entitled to receive a deferred annuity pursuant to section 104.1036;

(26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

104.1021. CREDITED SERVICE DETERMINED BY BOARD — CALCULATION. — 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the year 2000 plan, or becomes a vested former member at the time of termination, the member's or former member's unused sick leave as reported through the financial and human resources system maintained by the office of administration, or if a department's employees are not paid salaries or wages through such system, as reported directly by the department, for which the member has not been paid will be converted to credited service at the time of application for retirement benefits. The member shall receive one-twelfth of a year of credited service for each

one hundred and sixty-eight hours of such unused sick leave. The employing department shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury. The rate of accrual of sick leave for purposes of computing years of service pursuant to this section shall be no greater than ten hours per month. Such credited service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, "credited service" means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service pursuant to this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to **last** becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased**[**, and an affidavit so stating is filed by the member with the year 2000 plan**]** along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be effected by the member paying to the system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates employment shall have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service pursuant to the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created pursuant to this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section shall be added to the credited service in the first position of employment held as a member of the system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be added to the credited service in the position of employment held at the time the member completes the purchase or transfer pursuant to such section.

11. A member may not purchase any credited service described in this section unless the member has met the five-year minimum service requirement as provided in subdivisions (11) and (20) of section 104.1003, the two full biennial assemblies minimum service requirement as provided in section 104.1084, or the four-year minimum service requirement as provided in section 104.1084.

12. Absences taken by an employee without compensation for sickness and injury of the employee of less than twelve months or for leave taken by such employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as years of credited service.

104.1024. RETIREMENT, APPLICATION — ANNUITY PAYMENTS, HOW PAID, AMOUNT — ELECTION TO RECEIVE ANNUITY OR LUMP SUM PAYMENT FOR CERTAIN EMPLOYEES, DETERMINATION OF AMOUNT. — 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall not be earlier than the first day of the second month following the month of the execution and filing of the member's application for retirement nor later than the first day of the fourth month following the month of the execution and filing of the member's application for retirement.

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's full years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least **[**fifty**]** **forty-eight** years but less than sixty-two years, or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provision of section 104.080, the mandatory retirement age and completion of five years of credited service, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced Social Security retirement benefits.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

6. Effective July 1, 2002, any member, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond the date of normal retirement eligibility, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and the annuity starting date;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions of this section, with the exception that it shall be the amount which would have been payable at the annuity starting date had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this subsection, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a life annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment;

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.1051 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered credited service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order; and

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

104.1051. ANNUITY DEEMED MARITAL PROPERTY — DIVISION OF BENEFITS. — 1. Any annuity provided pursuant to the year 2000 plan is marital property and a court of competent jurisdiction may divide such annuity between the parties to any action for dissolution of marriage if at the time of the dissolution the member has at least five years of credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity or retirement plan not selected by the member;

(2) Shall not require the applicable retirement system to commence payments until the member's annuity starting date;

(3) Shall identify the monthly amount to be paid to the former spouse, which shall be expressed as a percentage and which shall not exceed fifty percent of the amount of the member's annuity accrued during all or part of the period of the marriage of the member and former spouse and which shall be based on the member's vested annuity on the date of the dissolution of marriage or an earlier date as specified in the order, which amount shall be adjusted proportionately upon the annuity starting date if the member's annuity is reduced due to the receipt of an early retirement annuity;

(4) Shall not require the payment of an annuity amount to the member and former spouse which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any annuity increases, **[**temporary annuity received pursuant to subsection 4 of section 104.1024,**]** additional years of credited service, increased final average pay, increased pay pursuant to subsections 2 and 5 of section 104.1084, or other type of increases accrued after the date of the dissolution of marriage **and any temporary annuity received pursuant to subsection 4 of section 104.1024** shall accrue solely to the benefit of the member; except that on or after September 1, 2001, any cost-of-living adjustment (COLA) due after the annuity starting date shall not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;

(6) Shall terminate upon the death of either the member or the former spouse, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address, date of birth, and Social Security number of both the member and the former spouse, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system shall provide the court having jurisdiction of a dissolution of a marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from either the court, the member, or the member's spouse, citing this section and identifying the case number and parties.

3. A system shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the former spouse;

(2) The order is inconsistent with any law governing the retirement system.

104.1072. LIFE INSURANCE BENEFITS — MEDICAL INSURANCE FOR CERTAIN RETIREES. — 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered pursuant to the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in the amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee;

(2) Any member who terminates employment after reaching normal or early retirement eligibility and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll

deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased **prior to January 1, 2004,** is that amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars. **The maximum amount of additional life insurance which may be so purchased on or after January 1, 2004, is an amount to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide the insurance itself.**

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

(4) Effective July 1, 2000, any member who applies and is eligible to receive an annuity based on the attainment of at least **[**fifty**]** **forty-eight** years of age with a total of years of age and years of credited service which is at least eighty shall be eligible to retain any optional life insurance described in subdivision (1) of this subsection. The amount of such retained insurance shall not be greater than the amount in effect during the month prior to termination of employment. Such insurance may be retained until the member's attainment of the earliest age for eligibility for reduced Social Security retirement benefits at which time the amount of such insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this subsection.

3. The state highways and transportation commission may provide for insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system. The state highways and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highways and transportation commission to provide the benefits shall be on the same basis as provided for other state employees pursuant to the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for retirees and their dependents shall be paid by the members or retirees. The commission may contract with other persons or entities including but not limited to third-party administrators, health network providers and health maintenance organizations for all, or any part of, the benefits provided for in this section. The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.

4. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to provide life insurance benefits as required in subsections 1 and 2 of this section. If the state highways and transportation commission agrees to the request, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for

any and all costs for life insurance provided pursuant to subdivision (2) of subsection 1 of this section. The person who is covered pursuant to subsection 2 of this section shall be solely responsible for the costs of any additional life insurance. In lieu of the life insurance benefit in subdivision (2) of subsection 1 of this section, the highways and transportation employees' and highway patrol retirement system is authorized in its sole discretion to provide a death benefit of five thousand dollars.

5. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide life insurance provided for pursuant to this section:

(1) The obligation to provide such life insurance shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any member who has been denied life insurance benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence; and

(3) The board and the system shall not be liable for life insurance benefits provided by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to life insurance benefits or the denial of life insurance benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for life insurance benefits and the insurer or service organization is unable to satisfy that judgment.

104.1093. DESIGNATION OF AN AGENT — BENEFIT RECIPIENT DEFINED — REVOCATION OF AGENT'S AUTHORITY. — 1. For purposes of this section, the term "benefit recipient" shall include any employee, beneficiary or retiree pursuant to sections 104.010 to 104.1093, any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo.

2. Notwithstanding any provision of law to the contrary, any benefit recipient may designate an agent who shall have the same authority as an agent pursuant to a durable power of attorney pursuant to sections 404.700 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other benefits. The authority of such agent may be revoked at any time by such benefit recipient. The authority of such agent shall not terminate if such benefit recipient becomes disabled or incapacitated. The designation shall be effective only upon the disability or incapacity of the benefit recipient as determined by that person's physician and communicated in writing to the system.

3. In the event a benefit recipient becomes disabled or incapacitated and has not designated an agent pursuant to subsection 2 of this section, the following persons may act as agent as described in subsection 2 of this section upon submission of a written statement from a physician determining that the **[**beneficiary**]** **benefit** recipient is disabled or incapacitated:

(1) The spouse of the **[**beneficiary**]** **benefit** recipient;

(2) If the spouse is unavailable, to a child of the **[**beneficiary**]** **benefit** recipient;

(3) If **[**a**]** **no** child is **[**unavailable**]** **available**, to a **[**brother or sister of the beneficiary**]** **parent of the benefit** recipient;

(4) If **[**a brother or sister is unavailable**]** **no parent is available**, to a **[**parent**]** **brother or sister** of the **[**beneficiary**]** **benefit** recipient**; or**

(5) If no brother or sister is available, to a niece, nephew, or a grandchild of the benefit recipient.

4. The system shall not be liable with regard to any payment made in good faith pursuant to this section.

168.303. JOB-SHARING RULES TO BE ADOPTED BY BOARD, JOB SHARING DEFINED. — The state board of education shall adopt rules to facilitate job-sharing positions for classroom teachers, as the term "job-sharing" is defined in this section. These rules shall provide that a classroom teacher in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. "Job-sharing position" shall mean any position:

(1) Shared with one other employee;

(2) Requiring employment of at least seventeen hours per week but not more than twenty hours per week on a regular basis; and

(3) Requiring at least seventy percent of all time spent in classroom instruction as determined by the employer; provided that, job-sharing position shall not include instructional support or school services positions including, but not limited to, guidance counselor, media coordinator, psychologist, social worker, audiologist, speech and language pathologist, and nursing positions.

169.712. TRANSFER TO PUBLIC SCHOOL RETIREMENT SYSTEM, CERTAIN NONTEACHER EMPLOYEES, PROCEDURE. — 1. Notwithstanding any provision of law to the contrary, any person duly certificated under the law governing the certification of teachers **in Missouri** who, after August 28, 1997, is first employed in a position which would otherwise qualify the person for membership in the nonteacher school employee retirement system pursuant to the provisions of sections 169.600 to 169.710 shall be a member of the public school retirement system pursuant to the provisions of sections 169.010 to 169.141, and shall receive creditable service on a pro rata basis in that system for subsequent certificated services which would otherwise have been creditable in the nonteacher school employee retirement system. Any such person shall have the option of being a member of the nonteacher school employee retirement system. The option election must be filed with the board of trustees of the public school retirement system within ninety days of first such employment following August 28, 1997.

2. Notwithstanding any provision of law to the contrary, any person duly certificated under the law governing the certification of teachers in Missouri who, on or after August 28, 2003, is employed by a public school, as defined in section 169.010, for at least seventeen but less than twenty hours per week on a regular basis shall be a member of the public school retirement system pursuant to the provisions of sections 169.010 to 169.141, and shall receive creditable service on a pro rata basis in that system. Any such person shall have the option of being a member of the nonteacher school employee retirement system. The option election must be filed with the board of trustees of the public school retirement system within ninety days of first such employment or within ninety days of August 28, 2003, whichever later occurs.

3. Any person who is a member of the public school retirement system or the nonteacher school employee retirement system pursuant to subsection 2 of this section may purchase credit in such system for service after August 28, 1991, that would have qualified such person for membership in either retirement system pursuant to subsection 2 of this section had such subsection been in effect prior to August 28, 2003; provided that such purchase of credit in the public school retirement system shall be subject to the provisions of section 169.056 and such purchase of credit in the nonteacher school employee retirement system shall be subject to the provisions of section 169.655.

287.845. ADMINISTRATION OF RETIREMENT SYSTEM AND FUNDS. — 1. The board shall administer the provisions of sections 287.812 to 287.855 and shall have the same powers, duties, and obligations in regard to the funds and the system provided for in such sections as it has in regard to the Missouri state employees' retirement system. The system shall calculate the annuity for an administrative law judge or legal advisor, as defined in section 287.812 based on the law

in effect at the time the administrative law judge's or legal [advisory's] **advisor's** employment was terminated.

2. The commissioner of administration, the state treasurer, and the secretary of the Missouri state employees' retirement system shall perform the same duties in regard to the retirement system established pursuant to the provisions of sections 287.812 to 287.855 that are prescribed for such officers in sections 104.436 and 104.438, RSMo, in regard to the Missouri state employees' retirement system. Funds so certified and transferred for the retirement system established pursuant to the provisions of sections 287.812 to 287.855 shall be deposited in a separate account of the Missouri state employees' retirement fund and shall be disbursed only for the purposes of sections 287.812 to 287.855.

3. Notwithstanding any other provision of law to the contrary, nothing contained in this act shall alter or revise the administrative law judge's and legal advisor's retirement system as previously established by law.

SECTION 1. CERTAIN RETIREES ELIGIBLE TO APPLY FOR MEDICAL COVERAGE BENEFITS, AMOUNT OF CONTRIBUTION, LIMITATIONS. — 1. Any state employee or retiree who retires pursuant to section 2 of this act, and who is also eligible for medical coverage as described in section 103.115, RSMo, shall be eligible to apply for the following coverage:

(1) Such retiree may elect to continue coverage for himself or herself and any eligible dependents at the same cost as if such retiree was an active employee;

(2) Such retiree may continue to pay the applicable rate as if the retiree were an active employee for a maximum period of five years or upon becoming eligible for Medicare, whichever occurs first; and

(3) After five years or upon becoming eligible for Medicare, the cost for medical coverage for such retiree and any dependents shall revert to the applicable rate in place at that time.

2. Any employee or retiree of a participating member agency who retires pursuant to section 2 of this act, shall only be eligible to have the provisions of subsection 1 of this section applied to his or her coverage if the governing body of the participating member agency elects to provide such benefits.

3. The governing boards of Truman State University, Lincoln University, the educational institutions described in section 174.020, RSMo, the highway commission that governs the health care plans of the Missouri department of transportation and the Missouri state highway patrol, and the conservation commission of the department of conservation may elect to provide its employees or retirees who retire pursuant to section 2 of this act, the same benefits as described in subsection 1 of this section under the respective medical plans of those institutions and departments. If the highway commission elects to provide retirees the benefits of this section, any special consultant pursuant to section 104.515, RSMo, who is a member of the Missouri department of transportation and Missouri state highway patrol medical and life insurance plan and who retired on or after February 1, 2003, but prior to the effective date of this section shall be eligible to receive the benefits of this section.

SECTION 2. CERTAIN EMPLOYEES ELIGIBLE FOR RETIREMENT MAY APPLY FOR MEDICAL BENEFITS UPON RETIREMENT, AMOUNT OF CONTRIBUTION, TIME LIMITATIONS. — 1. An employee who has not been a retiree of the system in which such employee is currently receiving creditable or credited service, who is eligible to receive a normal annuity pursuant to section 104.080, 104.090, 104.100, 104.271, or 104.400, RSMo, or a life and any temporary annuity pursuant to section 104.1024, RSMo, and whose annuity commences no later than September 1, 2003, shall be eligible to receive the medical benefits described in section 1 of this act.

2. An employee who would be eligible to receive a normal annuity pursuant to section 104.080, 104.090, 104.100, 104.271, or 104.400, RSMo, or a life and any temporary annuity pursuant to section 104.1024, RSMo, no later than January 1, 2004, shall be eligible to retire based on the employee's creditable or credited service and the average compensation or final average pay on the employee's date of termination of employment if the employee applies to retire and whose annuity commences no later than September 1, 2003. Such employee who so retires shall be eligible to receive the medical benefits described in subsection 1 of this section.

3. Any employee described in subsections 1 and 2 of this section who otherwise would be eligible to elect to receive benefits under the provisions of sections 104.625 and 104.1024, RSMo, by no later than January 1, 2004, shall be eligible to elect to receive benefits pursuant to sections 104.625 and 104.1024, RSMo; except that in no event shall a lump sum payment be made for any time period after the employee's annuity starting date.

4. A retiree whose retirement annuity commenced on or after February 1, 2003, but no later than September 1, 2003, shall be eligible to receive the medical benefits described in section 1 of this act.

5. The state may hire employees to replace those employees retiring pursuant to this section and section 1 of this act, except that departments shall not fill more than twenty-five percent of those positions vacated. Exceptions to the twenty-five percent restriction may be made for critical or seasonal positions or positions which are entirely federally funded. Such determination shall be made by rule and regulation promulgated by the office of administration. The provisions of this subsection shall not apply to Truman University, Lincoln University or the educational institutions described in section 174.020, 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, 2003, shall be invalid and void.

7. The Missouri state employees' retirement system and the highways and transportation employees' and highway patrol retirement system shall make a report in writing to the governor, commissioner of administration, and the general assembly by April 1, 2004, and in addition shall provide monthly tracking of the effect of state employee retirements pursuant to this section and section 1 of this act. The report shall cover the time period of February 1, 2003, to January 31, 2004. The report shall include the number of such retirements, the amount of payroll affected as a result of retirements, and the financial effect of such retirements as expressed in a report by each system's actuary.

8. The office of administration shall make a report in writing to the governor and the general assembly by April 1, 2004, and in addition shall provide monthly tracking of the budgetary effect of state employee retirements pursuant to this section and section 1 of this act. The report shall include the amount of payroll reduced as a result of such retirements, the number of positions that are core cut as a result of such retirements, the number of employees employed to replace those who retired pursuant to this section, and the financial effect on the budget, including any costs associated with payment of medical premiums by the state.

9. The Missouri consolidated health care plan shall make a report in writing to the governor and the general assembly by April 1, 2004, and in addition shall provide monthly tracking of the effect of state employee retirements pursuant to this section and section 1

of this act. The report may include, and not be limited to, the amount of payroll reduced as a result of such retirements, the number of positions that are core cut as a result of such retirements, the number of employees employed to replace those who retired pursuant to this section, and the financial effect on the budget, including any costs associated with payment of medical premiums by the state.

SECTION 3. WORKERS MEMORIAL FUND, TAX REFUND CONTRIBUTION MAY BE DESIGNATED — DIRECTOR'S DUTIES. — 1. In each tax year beginning on or after January 1, 2003, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the workers memorial fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on the first page of each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the workers memorial fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the workers memorial fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the workers memorial fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the workers memorial fund.

3. The director of revenue shall transfer at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the cost of collection and handling by the department of revenue, to the state treasurer for deposit to the workers memorial fund.

4. A contribution designated under this section shall only be transferred and deposited in the workers memorial fund after all other claims against the refund from which such contribution is to be made have been satisfied.

SECTION B. EMERGENCY CLAUSE. — Because the enactment of sections 1 and 2 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, the enactment of sections 1 and 2 of section A of this act shall be in full force and effect upon its passage and approval or July 1, 2003, whichever later occurs.

Approved June 19, 2003

SB 255 [SB 255]

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

Eliminates PSC ratemaking oversight for certain not-for-profit electrical cooperatives.

AN ACT to repeal section 393.110, RSMo, and to enact in lieu thereof one new section relating to the public service commission's jurisdiction of consumer-owned electric corporations.

SECTION
A. Enacting clause.
393.110. Application of sections 393.110 to 393.285 — public service commission not to have jurisdiction over certain electrical corporations.

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

SECTION A. ENACTING CLAUSE. — Section 393.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.110, to read as follows:

393.110. APPLICATION OF SECTIONS 393.110 TO 393.285 — PUBLIC SERVICE COMMISSION NOT TO HAVE JURISDICTION OVER CERTAIN ELECTRICAL CORPORATIONS. — **1.** Sections 393.110 to 393.285 shall apply to the manufacture and furnishing of gas for light, heat or power and the furnishing of natural gas for light, heat or power, and the generation, furnishing and transmission of electricity for light, heat or power, the supplying and distributing of water for any purpose whatsoever, and the furnishing of a sewer system for the collection, carriage, treatment or disposal of sewage for municipal, domestic or other beneficial or necessary purpose.

2. Notwithstanding any provision in chapter 386, RSMo, or this chapter to the contrary, the public service commission shall not have jurisdiction over the rates, financing, accounting, or management of any electrical corporation which is required by its bylaws to operate on the not-for-profit cooperative business plan, with its consumers who receive service as the stockholders of such corporation, and which holds a certificate of public convenience and necessity to serve a majority of its consumer-owners in counties of the third classification as of August 28, 2003. Nothing in this section shall be construed as amending or superseding the commission's authority granted pursuant to subsection 1 of section 386.310, RSMo, section 386.800, RSMo, section 393.106, and section 394.312, RSMo.

Approved May 8, 2003

SB 266 [HCS SB 266]

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

Requires the department of mental health to develop plans for children and persons on waiting lists.

AN ACT to amend chapter 633, RSMo, by adding thereto two new sections relating to services for persons with developmental disabilities.

SECTION
A. Enacting clause.
633.032. Mental health department to develop a plan for the needs of persons on waitlist for services — report required, made to whom, when.
1. Departments of mental health and social services to prepare plan for mental health services and support needs for children and persons seventeen years — report required when.

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

SECTION A. ENACTING CLAUSE. — Chapter 633, RSMo, is amended by adding thereto two new sections, to be known as sections 633.032 and 1, to read as follows:

633.032. MENTAL HEALTH DEPARTMENT TO DEVELOP A PLAN FOR THE NEEDS OF PERSONS ON WAITLIST FOR SERVICES — REPORT REQUIRED, MADE TO WHOM, WHEN. — 1. The department of mental health shall develop a plan to address the needs of persons who are on a waitlist for services, including persons in habilitation centers waiting for community placement. Such plan shall reflect the partnership between persons with developmental disabilities and their families, community providers, and state officials, and shall support the choice and control of consumers and their families in the delivery of services and supports. Such plan shall include the following:

(1) A method to reduce the waitlist for services over a period of five years and to reduce the waiting period to ninety days;

(2) A description of minimum supports and services available to all eligible individuals and their families;

(3) An evaluation of the capacity of current providers to serve more individuals;

(4) A method of adjusting support and service levels based on the needs of the eligible individual combined with family or other relevant circumstances affecting the support of such individual;

(5) A method for determining the circumstances when out-of-home twenty-four-hour care may be necessary;

(6) A description of how the plan will be implemented on a statewide basis;

(7) Any changes in state law that will be required to implement the plan; and

(8) An analysis of the budgetary and programmatic effects of providing supports and services for all eligible individuals and their families.

2. The plan required pursuant to this section shall be completed on or before November 1, 2003. The director of the department of mental health shall submit a copy of the plan to the speaker of the house of representatives, the president pro tem of the senate, and the governor.

SECTION 1. DEPARTMENTS OF MENTAL HEALTH AND SOCIAL SERVICES TO PREPARE PLAN FOR MENTAL HEALTH SERVICES AND SUPPORT NEEDS FOR CHILDREN AND PERSONS SEVENTEEN YEARS — REPORT REQUIRED WHEN. — 1. The department of mental health and the department of social services shall jointly prepare a plan to address the need for mental health services and supports for:

(1) All of the cases in the custody of the department of social services that involve children in the system due exclusively to a need for mental health services, and where there is no instance of abuse, neglect, or abandonment; and

(2) Children or persons seventeen years of age who are determined by the court to require mental health services under subdivision (5) of subsection 1 of section 211.181, RSMo.

2. Such plan shall include:

(1) An analysis of federal funding, including waivers, that may be used to support the needed mental health services and supports;

(2) An analysis of the budgetary and programmatic impact of meeting the needs of the children and persons seventeen years of age for mental health services and supports; and

(3) An analysis of the feasibility, including time frames, of securing federal funds for the support of the needed mental health services and supports.

3. The plan required in this section shall be completed on or before January 1, 2004. The directors of the department of social services and the department of mental health shall submit a copy of the plan to the governor, the president pro tem of the senate, and the speaker of the house of representatives.

Approved July 1, 2003

SB 269 [SCS SB 269]

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

Enables Excelsior Springs to submit a public safety sales tax to its voters.

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to a city sales tax for public safety, with an emergency clause.

SECTION

A. Enacting clause.
67.230. Sales tax authorized, Excelsior Springs — proceeds to be used for public safety purposes — ballot language — collection of tax, procedure.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.230, to read as follows:

67.230. SALES TAX AUTHORIZED, EXCELSIOR SPRINGS — PROCEEDS TO BE USED FOR PUBLIC SAFETY PURPOSES — BALLOT LANGUAGE — COLLECTION OF TAX, PROCEDURE. — 1. The governing body of any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

"Shall the city of ..... (city's name) impose a citywide sales tax of ..... (insert amount) for the purpose of improving the public safety of the city?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal

pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, 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 in the state treasury, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. 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 the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

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

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.

SECTION B. EMERGENCY CLAUSE. — Because of the need to increase revenue for public safety, the enactment of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section A of this act shall be in full force and effect upon its passage and approval.

Approved May 15, 2003

SB 275 [HCS SB 275]

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

Addresses authority of governor to convey certain state property in Cole County.

AN ACT to repeal section 2, as enacted by senate bill no. 1168, ninety-first general assembly, second regular session, section 2, as enacted by senate committee substitute for house bill no. 1811, ninety-first general assembly, second regular session, and section 3, as enacted by senate bill no. 1041, ninety-first general assembly, second regular session relating to conveyance of property owned by the state, and to authorize the conveyance if priority owned by the state in the county of Cole to the Missouri state penitentiary redevelopment commission.

SECTION
1. Conveyance of Cole County property by the state to the Missouri state penitentiary redevelopment commission.
A. Enacting clause.
2. Repeals the authority of the governor to convey certain Cole County property.
2. Repeals the authority of the governor to convey certain Cole County property.
3. Repeals the authority of the governor to convey certain Cole County property.

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

SECTION 1. CONVEYANCE OF COLE COUNTY PROPERTY BY THE STATE TO THE MISSOURI STATE PENITENTIARY REDEVELOPMENT COMMISSION. — 1. The governor is hereby authorized and empowered to convey all interest in fee simple absolute in property owned by the state in the county of Cole to the Missouri state penitentiary redevelopment commission. The property to be conveyed, consisting of the facility known historically as the Missouri State Penitentiary, is more particularly described as follows:

All of Inlots 138 thru 157; All of Inlots 187 and 188; All of Inlots 191 thru 257; All of Outlots 46, 48 and 49; All that part of Outlot 50, lying south of the Missouri Pacific Railroad right-of-way; All that part of Outlot 69, lying south of the Missouri Pacific Railroad right-of-way and north of the northerly line of Riverside Drive; All that part of Outlots 47, 51, 70 and 71, lying north of the northerly line of Riverside Drive; All that part of Edwards Street, lying between the easterly line of Chestnut Street and the northerly line of Riverside Drive; All that part of Hough Street, lying between the easterly line of Marshall Street and the westerly line of Linn Street, (partly vacated by Jefferson City Ordinance No. 3256); All that part of Water Street, lying between the easterly line of Lafayette Street and the westerly line of Linn Street, (partly vacated by Jefferson City Ordinance No. 4423); All that part of Marshall Street lying between the Missouri River and the northerly line of State Street; All that part of Lafayette Street, lying between the Missouri River and the northerly line of State Street, (previously vacated by Jefferson City ordinance no. 3256); All that part of Cherry Street lying between the Missouri River and the northerly line of Capitol Avenue; All that part of Chestnut Street, lying between the Missouri River and north of a line between the southeasterly corner of Inlot 149 and the southwesterly corner of Inlot 154, (previously vacated by Jefferson City ordinance no. 4423);

All that part of Linn Street, lying between the Missouri River and the northerly line of Water Street, (previously vacated by Jefferson City ordinance no. 4423); All that part of a 20 foot wide public alley, lying north of and adjacent to the northerly line of Inlots 242 thru 245 and 250 thru 253, east of the easterly line of Cherry Street and west of the westerly line of Linn Street; All that part of a 20 foot wide public alley, lying north of and

adjacent to the northerly line of Inlots 191 and 192, 197 thru 200, 205 thru 208, 213 thru 216 and 221 thru 224, between the easterly line of Inlots 185 and 190 and westerly line of Linn Street, (partly vacated by Jefferson City Ordinance No. 3256); All that part of a 20 foot wide public alley, lying north of and adjacent to the northerly line of Inlots 142 thru 145, and 150 thru 153, east of the easterly line of Lafayette Street and west of the westerly line of Chestnut Street; All that part of Sullivan Street lying south of the Missouri Pacific Railroad right-of-way and north of the northerly line of Riverside Drive and that part of said Sullivan Street lying north of the northerly line of Water Street and west of the westerly line of Riverside Drive; Part of the Southwest Quarter of Fractional Section 9; Part of the Northwest Quarter of Section 16; Part of the Northeast Quarter of Section 17; and part of Fractional Section 8.

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 Sections 8, 9,16 & 17 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 southeasterly corner of Inlot 224; thence S41°59'58"W, along the westerly line of the Linn Street right-of-way, 278.75 feet to the southeasterly corner of Inlot 157; thence N47°45'41"W, along the southerly line of Inlots 157, 156, 155 and 154 and the westerly extension thereof, 497.50 feet; to a point on the westerly line of the Chestnut Street right-of-way; thence S41°59'58"W, along the westerly line of said Chestnut Street right-of-way, 218.78 feet to a point on the northerly line of the Capitol Avenue right-of-way; thence N47°42'07"W, along the northerly line of said Capitol Avenue right-of-way, 459.17 feet to the center of the Cherry Street right-of-way; thence N47°43'05"W, along the northerly line of said Capitol Avenue right-of-way, 457.61 feet to a point on the easterly line of the Lafayette Street right-of-way; thence N41°40'45"E, along the easterly line of said Lafayette Street right-of-way, 497.69 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 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 along the northerly extension thereof, to a point where said extended line intersects the southerly bank of the Missouri River; thence meandering Easterly, along the southerly bank of the Missouri River, to a point intersecting the northerly extension of the westerly line of the vacated Linn Street right-of-way; thence S41°59'58"W, along said extended line, to a point intersecting the southerly line of the Missouri Pacific Railroad right-of-way; thence Easterly, along the southerly line of said Railroad right-of-way, the following courses: S76°32'03"E, 144.89 feet; thence S77°16'57"E, 47.18 feet; thence S48°45'34"E, 104.71 feet; thence Southeasterly, on a curve to the right, having a radius of 3194.44 feet, an arc distance of 528.26 feet, (the chord of said curve being S72°32'42"E, 527.66 feet); thence S67°48'27"E, 1054.20 feet; thence Southeasterly, on a curve to the right, having a radius of 11962.27 feet, an arc distance of 802.07 feet, (the chord of said curve being S65°53'12"E, 801.92 feet); thence Southeasterly, on a curve to the right, having a radius of 6150.45 feet, an arc distance of 0.66 feet, (the chord of said curve being S63°57'46"E, 0.66 feet) to a point intersecting the westerly line of a tract described by deed of record in Book 381, page 481, Cole County Recorder's Office; thence leaving the southerly line of said Missouri Pacific Railroad right-of-way, S23°33'02"W, along the westerly line of said tract described in

Book 381, page 481, 527.50 feet to the northeasterly corner of Tract B of a Parcel Division Survey of record in Survey Record Book A, page 231 and said corner being on the northerly boundary of a tract described by deed of record in Book 245, page 533, Cole County Recorder's Office; thence N73°07'59"W, along the northerly boundary of said Tract B, 305.40 feet to the northwesterly corner thereof and said corner being the most northerly corner of Tract A of said Survey and being the most northerly corner of the subsequent deed of record thereof in Book 410, page 354, Cole County Recorder's Office; thence S16°24'11"W, along the westerly boundary of said Tract A, and the southerly extension thereof, 412.09 feet to a point intersecting the northerly line of a 30 foot wide street right-of-way known as Riverside Drive, (formerly River Lane) as shown on the Plat of Renn Addition, of record in Plat Book 2, page 5, Cole County Recorder's Office; thence N83°32'22"W, along the northerly line of said Riverside Drive right-of-way, 1316.36 feet to the southeasterly corner of a tract described by deed of record in Book 18, page 255, Cole County Recorder's Office; thence N69°53'58"W, along said Riverside Drive right-of-way line and along the southern boundary of said tract described in Book 18, page 255, 610.82 feet; thence S3°01'23"W, along said Riverside Drive right-of-way line and along the southern boundary of said tract described in Book 18, page 255, 275.00 feet to a point intersecting the southerly line of Outlot 51; thence N47°19'29"W, along the southerly line of said Outlot 51 and along the westerly extension thereof, being the northerly line of Water Street, 112.04 feet to a point in the center of Sullivan Street; thence N47°45'39"W, along the northerly line of Water Street and the southerly lines of Outlots 47 and 46 and the westerly extension thereof, 1000.29 feet to the westerly line of Linn Street and the POINT OF BEGINNING.

Containing in all 144 acres, more or less.

EXCEPT that part previously conveyed to the Missouri Pacific Railroad.

2. The property may be separated into parcels and conveyed to the commission at different points in time.

3. Consideration for the conveyance shall be the redevelopment of the property in accordance with section 217.905, RSMo.

4. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

5. The attorney general shall approve the form of the instrument of conveyance.

SECTION A. ENACTING CLAUSE. — Section 2, as enacted by senate bill no. 1168, ninety-first general assembly, second regular session, section 2, as enacted by senate committee substitute for house bill no. 1811, ninety-first general assembly, second regular session, and section 3, as enacted by senate bill no. 1041, ninety-first general assembly, second regular session, are repealed, to read as follows:

[SECTION 2. REPEALS THE AUTHORITY OF THE GOVERNOR TO CONVEY CERTAIN COLE COUNTY PROPERTY. — 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 2. REPEALS THE AUTHORITY OF THE GOVERNOR TO CONVEY CERTAIN COLE COUNTY PROPERTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the County of Cole to the General Services Administration or to the Missouri Development Finance Board. The property to be conveyed is more particularly described as follows:

All of Inlots 187 and 188; All of Inlots 191 thru 200 inclusive; All of Inlots 225 thru 229; All that part of the Hough Street Right-of-way (previously vacated by Jefferson City Ordinance No. 3256); All that part of the Marshall Street Right-of-way lying north of the northerly line of State Street and south of the Missouri Pacific Railroad; All that part of the Lafayette Street Right-of-way (previously vacated by Jefferson City ordinance no. 3256); All that part of a 20 foot wide public alley lying between Marshall Street and Lafayette Street (previously vacated by Jefferson City Ordinance No. 3256); All that part of a 20 foot wide public alley, lying east of the easterly line of Inlots 185 and 190 and west of the westerly line of the Marshall Street Right-of-way; any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 187 & 188, any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 225 thru 229 inclusive; according to the plat of the City of Jefferson, Missouri and according to the Government Land Office Plat of Township 44 North, Range 11 West, dated December 6, 1861. All of the aforesaid lies within Fractional Section 8 of said Township 44 North, Range 11 West, and within the Corporate Limits of the City of Jefferson, Cole County, Missouri, more particularly described as follows:

BEGINNING at the southwesterly corner of Inlot 191; thence N42°18'12"E, along the westerly line of said Inlot 191 and along the northerly extension thereof, 218.46 feet to a point intersecting the northerly line of a 20 foot wide alley at the southwest corner of Inlot 186; thence S47°41'48"E, along the northerly line of said alley, 69.58 feet to the southwesterly corner of Inlot 187; thence N42°18'12"E, along the westerly line of said Inlot 187 and the northerly extension thereof, 259.20 feet; thence S68°13'57"E, 766.53 feet to a point intersecting the easterly line of the aforesaid vacated Lafayette Street Right-of-way; thence S42°15'04"W, along the easterly line of said vacated Lafayette Street Right-of-way, 746.58 feet to a point intersecting the northerly

line of the State Street Right-of-way (formerly Water Street); thence N47°42'13"W, along the northerly line of said State Street Right-of-way, 539.62 feet to a point in the center of the Marshall Street Right-of-way; thence N47°40'29"W, along the northerly line of said State Street Right-of-way, 248.46 feet to the POINT OF BEGINNING.

2. Consideration for the conveyance shall be the transfer of property of like value to the state of Missouri.

3. The attorney general shall approve the form of the instrument of conveyance.**]**

[SECTION 3. REPEALS THE AUTHORITY OF THE GOVERNOR TO CONVEY CERTAIN COLE COUNTY PROPERTY. — 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 July 9, 2003

SB 281 [HCS SCS SB 281]

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

Allows first class counties to acquire, erect, operate, manage, etc. buildings and property outside the county seat.

AN ACT to repeal sections 49.370 and 49.380, RSMo, and to enact in lieu thereof one new section relating to county property.

SECTION
A. Enacting clause.
49.370. Site for county building.
49.380. Superintendent to select and purchase building site, when.

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

SECTION A. ENACTING CLAUSE. — Sections 49.370 and 49.380, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 49.370, to read as follows:

49.370. SITE FOR COUNTY BUILDING. — 1. The county commission shall designate the place whereon to erect any county building, on any land belonging to such county, at the established seat of justice thereof. **If there is no suitable ground belonging to said county within the limits of the original town known as the established seat of justice, the county commission shall select a proper piece of ground anywhere within the corporate limits of the town known as the county seat, and may purchase or receive by donation a lot or lots of ground for that purpose, and shall take a good and sufficient deed in fee simple for the same to the county, and shall make report to the circuit court at its next sitting.**

2. The provisions of subsection 1, notwithstanding, any county of the first classification may acquire, own, erect, operate, manage, and maintain buildings and property outside the limits of the established seat of justice, so long as the building or property is located within the county.

[49.380. SUPERINTENDENT TO SELECT AND PURCHASE BUILDING SITE, WHEN. — If there is no suitable ground for that purpose belonging to said county within the limits of the original town known as the established seat of justice, the superintendent shall select a proper piece of ground anywhere within the corporate limits of the town known as the county seat, and may purchase or receive by donation a lot or lots of ground for that purpose, and shall take a good and sufficient deed in fee simple for the same to the county, and shall make report of his proceedings to the county commission and the circuit court at its next sitting.**]**

Approved July 1, 2003

SB 282 [SB 282]

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 maximum time a county commission may issue a lease or concession grant for certain public facilities.

AN ACT to repeal section 64.341, RSMo, and to enact in lieu thereof one new section relating to county facilities.

SECTION
A. Enacting clause.

64.341. County commissions may lease lands and grant concessions for recreational and other purposes — procedure — county commission may operate (first class counties).

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

SECTION A. ENACTING CLAUSE. — Section 64.341, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 64.341, to read as follows:

64.341. COUNTY COMMISSIONS MAY LEASE LANDS AND GRANT CONCESSIONS FOR RECREATIONAL AND OTHER PURPOSES — PROCEDURE — COUNTY COMMISSION MAY OPERATE (FIRST CLASS COUNTIES). — 1. The county commissions in all counties of class one are hereby authorized and given the power in all matters pertaining to lots, tracts and parcels of ground, land and improvements thereon used by such counties as public parks, playgrounds, camping sites, recreation areas and sanitary land fills, to lease such land or any part thereof and any improvements erected thereon to, and permit improvements to be erected thereon by any person, firm or corporation undertaking to serve the public purposes thereof and to grant concessions therein for the sale of refreshments to the public using such areas and for services therein relating to boating, swimming, picnicking, golfing, shooting, horseback riding, fishing, tennis and other recreational, cultural and educational uses upon such terms and under such regulations as the county commissions may prescribe. The county commission may establish, change from time to time and provide for collection thereof by its agents, employees or concessionaires a reasonable charge or charges to the public for the uses of and services in the areas as hereinabove set out. No lease or concession grant shall be for a longer term than **[**five**]** **seven** years. No such lease shall be made or concession granted until after due opportunity for competition, including advertising the proposed letting or granting in a newspaper in the county with a circulation of at least five hundred copies per issue, if there be such, and if not, in such case notice shall be posted on the bulletin board in the county courthouse. All leases shall be made and concessions granted to the party or parties submitting the bid most favorable to the county. In every such lease made and concession granted, the county shall reserve the right for properly authorized representatives thereof to enter at all reasonable times in and upon the premises for the purpose of inspecting same. All moneys derived from any leases, concessions, charges, or from the sale of products obtained from any such areas shall be paid into the county treasury and be credited to the park fund and be used and expended by the county commission for park purposes. Nothing herein stated shall be held to abrogate the conditions specified in the deed or deeds of gift of any land or lands herebefore granted to the county, but said deed or deeds and acceptance thereof and all conditions therein are hereby ratified and confirmed, which conditions thereof, so far as they may be in conflict with this section, shall be considered as exceptions to the provisions hereof.

2. When private operators are not interested or available, the county commission shall have the power to operate the facilities described in subsection 1 of this section for a period not to exceed **[**three**]** **seven** years, after which the facilities shall again be offered for competitive bids for private operation. In the event such bids are not responsive or favorable to the county, the county commission shall continue to operate the facilities for an additional period of time not to exceed **[**three**]** **seven** years.

Approved July 9, 2003

SB 288 [SCS SB 288]

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 time for the owner of lost property to prove property from one year to 180 days after publication.

AN ACT to repeal section 447.040, RSMo, and to enact in lieu thereof one new section relating to lost and found property.

SECTION
A. Enacting clause.
447.040. Procedure if no owner appears, when.

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

SECTION A. ENACTING CLAUSE. — Section 447.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 447.040, to read as follows:

447.040. PROCEDURE IF NO OWNER APPEARS, WHEN. — If no owner appear and prove the money or property within forty days, and the value exceed twenty dollars, the finder shall, within thirty days thereafter, cause a copy of the description to be inserted in some newspaper **[**in this state,**] of general circulation, qualified pursuant to chapter 493, RSMo, and located in the county where the money or property was found, once per week** for three **consecutive** weeks; and if no owner prove the property within **[**one year**] one hundred eighty days** after such publication, the same shall vest in the finder.

Approved June 9, 2003

SB 289 [SB 289]

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

Names the portion of Highway 71 within Jasper County the "Trooper Charles P. Corbin Memorial Highway".

AN ACT to amend chapter 227, RSMo, by adding thereto two new sections relating to the establishment of the Trooper Charles P. Corbin memorial highway.

SECTION
A. Enacting clause.
227.334. Trooper Charles P. Corbin Memorial Highway, portion of U.S. Highway 71 in Jasper County designated as.
227.342. William "Bill" Lark Memorial Highway, portion of interstate highway 29 in Holt County designated as.

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 227.334 and 227.342, to read as follows:

227.334. TROOPER CHARLES P. CORBIN MEMORIAL HIGHWAY, PORTION OF U.S. HIGHWAY 71 IN JASPER COUNTY DESIGNATED AS. — The portion of U.S. Highway 71 located in a county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants shall be named the "Trooper Charles P. Corbin Memorial Highway".

227.342. WILLIAM "BILL" LARK MEMORIAL HIGHWAY, PORTION OF INTERSTATE HIGHWAY 29 IN HOLT COUNTY DESIGNATED AS. — The portion of interstate highway 29 between mile marker 89 and mile marker 92, all located within a county of the third classification without a township form of government and with more than five thousand three hundred but less than five thousand four hundred inhabitants, shall be designated the "William 'Bill' Lark Memorial Highway".

Approved July 11, 2003

SB 292 [SB 292]

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

Limits disclosure of credit card account numbers on sales receipts provided to cardholder.

AN ACT to repeal section 407.433, RSMo, and to enact in lieu thereof one new section relating to disclosure of credit card numbers on sales receipts, with penalty provisions.

SECTION

A. Enacting clause.
407.433. Protection of credit card and debit card account numbers, prohibited actions, penalty, exceptions — effective date, applicability.

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

SECTION A. ENACTING CLAUSE. — Section 407.433, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.433, to read as follows:

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 **provided to the cardholder** 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.

Approved May 30, 2003

SB 293 [SB 293]

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 revenue to specify the minimum income tax filing level.

AN ACT to repeal section 143.481, RSMo, and to enact in lieu thereof one new section relating to procedures for filing income taxes.

SECTION
A. Enacting clause.
143.481. Persons required to make returns of income.

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

SECTION A. ENACTING CLAUSE. — Section 143.481, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.481, to read as follows:

143.481. PERSONS REQUIRED TO MAKE RETURNS OF INCOME. — An income tax return with respect to the tax imposed by sections 143.011 to 143.996 shall be made by the following:

(1) Every resident individual who has a Missouri adjusted gross income of one thousand two hundred dollars or more**, or a greater amount as prescribed by the director of revenue** and who is required to file a federal income tax return;

(2) Every nonresident individual who has a Missouri nonresident adjusted gross income (Missouri adjusted gross income derived from sources within this state) of six hundred dollars or more**, or a greater amount as prescribed by the director of revenue** and who is required to file a federal income tax return;

(3) Every resident estate or trust which is required to file a federal income tax return;

(4) Every nonresident estate which has gross income of six hundred dollars or more for the taxable year from sources within this state;

(5) Every nonresident trust which for the taxable year has from sources within this state, either**;**

(a) Any taxable income**[**,**];** or

(b) Gross income of six hundred dollars or more regardless of the amount of taxable income;

(6) Every corporation which**:**

(a) Is not an exempt corporation described in subsection 2 of section 143.441**[**,**];**

(b) Is required to file a federal income tax return**[**,**];** and

(c) Has gross income from sources within this state of one hundred dollars or more.

Approved May 30, 2003

SB 294 [SCS SB 294]

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

Requires criminal history check for certain persons related to the gaming and civilian review boards.

AN ACT to repeal sections 313.057, 313.220, and 313.810, RSMo, and to enact in lieu thereof three new sections relating to licensing requirements.

SECTION

A. Enacting clause.
313.057. Suppliers license required, background checks required, exceptions to licensure, qualifications, fee — records — pull-tab cards, tax on — restrictions on use — failure to pay tax, penalty.
313.220. Rules and regulations — procedure generally, this chapter — background checks may be required, when.
313.810. Application, contents, fingerprints submission — investigation, commission may conduct — false information on application, penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 313.057, 313.220, and 313.810, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 313.057, 313.220, and 313.810, to read as follows:

313.057. SUPPLIERS LICENSE REQUIRED, BACKGROUND CHECKS REQUIRED, EXCEPTIONS TO LICENSURE, QUALIFICATIONS, FEE — RECORDS — PULL-TAB CARDS, TAX ON — RESTRICTIONS ON USE — FAILURE TO PAY TAX, PENALTY. — 1. It is unlawful for any person, either as an owner, lessee or employee, to operate, carry on, conduct or maintain any form of manufacturing, selling, leasing or distribution of any bingo equipment or supplies without having first procured and maintained a Missouri bingo equipment and supplies manufacturer or supplier license.

2. **The commission shall submit two sets of fingerprints for each key person, as defined in commission rules and regulations, of an entity or organization seeking issuance or renewal of a Missouri bingo equipment and supplies manufacturer or supplier license, for the purpose of checking the person's prior criminal history when the commission determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. The second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the commission of any criminal history information or lack of criminal history information discovered on the individual. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the commission.**

3. The holder of a state bingo license may, within two years of cessation of conducting bingo or upon specific approval by the commission, dispose of by sale in a manner approved by the commission, any or all of his bingo equipment and supplies, without a supplier's license. In case of foreclosure of a lien by a bank or other person holding a security interest for which bingo equipment is security in whole or in part for the lien, the commission may authorize the disposition of the bingo equipment without requiring a supplier's license.

[3.**]** **4.** Any person whom the commission determines to be a suitable person to receive a license **[**under**]** **pursuant to** the provisions of this section may be issued a manufacturer's or supplier's license. The commission may require suppliers to post a bond with the commission

in an amount and in the manner prescribed by the commission. The burden of proving his qualification to receive or hold a license [under] **pursuant to** this section is at all times on the applicant or licensee.

[4.] **5.** The commission shall charge and collect from each applicant for a supplier's license a one-time application fee set by the commission, not to exceed five thousand dollars. The commission shall charge and collect an annual renewal fee for each supplier licensee not to exceed one thousand dollars.

[5.] **6.** The commission shall charge and collect from each applicant for a manufacturer's license a one-time application fee set by the commission, not to exceed one thousand dollars. The commission shall charge and collect an annual renewal fee for each manufacturer licensee not to exceed five hundred dollars.

[6.] **7.** The commission shall charge and collect from each applicant for a hall provider's license a one-time application fee set by the commission, not to exceed seven hundred fifty dollars. The commission shall charge and collect an annual renewal fee for each hall provider licensee not to exceed five hundred dollars.

[7.] **8.** All licenses issued [under] **pursuant to** this section shall be issued for the calendar year and shall expire on December thirty-first of each year. Regardless of the date of application or issuance of the license, the fee to be charged and collected [under] **pursuant to** this section shall be the full annual fee.

[8.] **9.** All license fees collected pursuant to this section shall be paid over immediately to the state treasurer to be deposited to the credit of the gaming commission bingo fund.

[9.] **10.** All licensees [under] **pursuant to** this section shall maintain for a period of not less than three years full and complete records of all business carried on in this state and shall make same available for inspection to any duly authorized representative of the commission. If a supplier does not receive payment in full from an organization within thirty days of the delivery of bingo supplies, the supplier shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all suppliers that until further notice from the commission, all sales of bingo supplies to the delinquent organizations shall be on a cash-only basis. Upon receipt of the notice from the commission, no supplier may extend credit to the delinquent organization until such time as the commission approves credit sales. If a manufacturer does not receive payment in full from a supplier within ninety days of the delivery of bingo supplies, the manufacturer shall notify the commission in writing, or in a manner specified by the commission in its rules and regulations, of the delinquency. Upon receipt of the notice of delinquency, the commission shall notify all manufacturers that until further notice from the commission, all sales of bingo supplies to the delinquent supplier shall be on a cash-only basis. Upon receipt of the notice from the commission, no manufacturer may extend credit to the delinquent supplier until such time as the commission approves credit sales.

[10.] **11.** Until January 1, 1995, all suppliers shall pay a tax on all pull-tab cards distributed by them in the amount of ten dollars per box when sold by any organization licensed to conduct bingo [under] **pursuant to** the provisions of sections 313.005 to 313.080. No box sold shall contain more than twenty-four hundred pull-tab cards. Beginning January 1, 1995, a tax is hereby imposed in the amount of two percent of the gross receipts of the retail sales value charged for each pull-tab card sold in Missouri to be paid by the supplier. The taxes, less two percent of the total amount paid which may be retained by the supplier, if timely filed and paid, shall be paid on a monthly basis to the commission by each supplier of pull-tabs and shall be due on the last day of each month following the month in which the pull-tabs were sold. The taxes shall be deposited in the state treasury, credited to the bingo proceeds for education fund. All pull-tab cards sold by suppliers in this state shall bear on the face thereof the amount for which such pull-tab cards will be sold, and the license number of the supplier shall be printed on the inventory statement commonly called the flare, enclosed in each unit container. Each unit container shall contain cards printed in such a manner as to ensure that at least sixty percent of

the gross revenues generated by the ultimate sale of such cards shall be returned to the final purchasers of such cards. Any supplier who fails to pay the tax imposed **[**under**]** **pursuant to** this subsection shall have his license issued **[**under**]** **pursuant to** this section revoked and shall be guilty of a class A misdemeanor.

313.220. RULES AND REGULATIONS — PROCEDURE GENERALLY, THIS CHAPTER — BACKGROUND CHECKS MAY BE REQUIRED, WHEN. — 1. The commission shall promulgate such rules and regulations governing the establishment and operation of a state lottery as it deems necessary and desirable to fully implement the mandate of the people expressed in the approval of the lottery amendment to article III of the Missouri Constitution. Such rules and regulations shall be designed so that a lottery may be initiated at the earliest feasible and practicable time. 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.

2. The commission shall have the authority to require a fingerprint background check on any person seeking employment or employed by the commission, any person seeking contract with or contracted to the commission and any person seeking license from or licensed by the commission. The background check shall include a check of the Missouri criminal records repository and when the commission deems it necessary to perform a nationwide criminal history check, a check of the Federal Bureau of Investigations criminal records file. Fingerprints shall be submitted to the Missouri criminal records repository as required. Notwithstanding the provisions of section 610.120, RSMo, the commission shall have access to closed criminal history information when fingerprints are submitted.

313.810. APPLICATION, CONTENTS, FINGERPRINTS SUBMISSION — INVESTIGATION, COMMISSION MAY CONDUCT — FALSE INFORMATION ON APPLICATION, PENALTY. — 1. A person shall not be issued a license to conduct gambling games on an excursion gambling boat or a license to operate an excursion gambling boat, an occupational license, or a supplier license unless the person has completed and signed an application on the form prescribed and published by the commission. The application shall include the full name, residence, date of birth and other personal identifying information as the commission deems necessary, including but not limited to, the information specified in section 313.847. The application shall also indicate whether the applicant has **[**either**]** **any** of the following:

(1) A record of conviction of a felony; or

(2) A current addiction to a controlled substance.

2. **[**An applicant for a license shall submit pictures and fingerprints to the commission in the manner prescribed on the application forms.**]** **The commission shall submit two sets of fingerprints for any person seeking employment with the commission or any person who is seeking the issuance or renewal of a license issued by the commission, for the purpose of checking the person's prior criminal history when the commission determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. The second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the commission of any criminal history information or lack of criminal history information discovered on the individual. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the commission.**

3. It is the burden of the applicant to show by clear and convincing evidence his suitability as to character, experience and other factors as may be deemed appropriate by the commission.

4. Before a license is granted, the commission shall conduct a thorough investigation of the applicant for a license to operate a gambling game operation on an excursion gambling boat. The applicant shall provide information on a form as required by the commission.

5. A person who knowingly makes a false statement on an application is guilty of a class A misdemeanor and shall not ever again be considered for application by the commission.

6. The licensee shall permit the commission or commission employees designated to inspect the licensee or holder's person, personal property, excursion gambling boat and effects at any time.

Approved June 9, 2003

SB 295 [HCS SCS SB 295]

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

Makes various modifications to laws regarding tax sales of land.

AN ACT to repeal sections 140.150, 140.170, 140.190, 140.200, 140.210, 140.220, 140.230, 140.260, 140.280, 140.340, 140.350, 140.360, 140.370, 140.390, 140.400, 140.405, 140.410, 140.420, and 140.440, RSMo, and to enact in lieu thereof fifteen new sections relating to delinquent taxes.

SECTION

A. Enacting clause.
140.150. Lands, lots, mineral rights, and royalty interests subject to sale, when.
140.170. County collector to publish delinquent land list — contents — site of sale — expenses — publisher's affidavit to be recorded — exception for certain property, contents of list.
140.190. Period of sale — manner of bids — prohibited sales — sale to nonresidents.
140.220. County clerk to act as clerk of sale — fee.
140.230. Foreclosure sale surplus — deposited in treasury — escheats, when.
140.260. Purchase by county or city, when — procedure.
140.280. Payment of total amount by purchaser — penalty for failure.
140.340. Redemption, when — manner.
140.350. Redemption by incapacitated or disabled persons, when.
140.360. Redemption — compensation for improvements — limitations.
140.370. Redemption — record of sale.
140.405. Purchaser of property at delinquent land tax auction, deed issued to, when — affidavit — notice of right of redemption — loss of interest, when.
140.410. Execution and record of deed by purchaser — failure — assignment prohibited, when — recording fee required, when.
140.420. Deed to purchaser if unredeemed.
140.440. Payment of taxes by holder of purchase certificate — subsequent certificate.
140.200. Where owner has several tracts, how sold.
140.210. Quantity of land sold.
140.390. Redemption of undivided or specific share of land sold.
140.400. Partial redemption — duty of collector.

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

SECTION A. ENACTING CLAUSE. — Sections 140.150, 140.170, 140.190, 140.200, 140.210, 140.220, 140.230, 140.260, 140.280, 140.340, 140.350, 140.360, 140.370, 140.390, 140.400, 140.405, 140.410, 140.420, and 140.440, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 140.150, 140.170, 140.190, 140.220, 140.230,

140.260, 140.280, 140.340, 140.350, 140.360, 140.370, 140.405, 140.410, 140.420, and 140.440, to read as follows:

140.150. LANDS, LOTS, MINERAL RIGHTS, AND ROYALTY INTERESTS SUBJECT TO SALE, WHEN. — 1. All lands **[**and lots**], lots, mineral rights, and royalty interests** on which taxes are delinquent and unpaid are subject to sale to discharge the lien for the delinquent and unpaid taxes as provided for in this chapter on the fourth Monday in August of each year.

2. No real property**, lots, mineral rights, or royalty interests** shall be sold for state, county or city taxes without judicial proceedings, unless the notice of sale contains the names of all record owners thereof, or the names of all owners appearing on the land tax book and all other information required by law. Delinquent taxes, **[**with**]** penalty, interest and costs **due thereon**, may be paid to the county collector at any time before the property is sold therefor.

3. The entry in the back tax book by the county clerk of the delinquent lands **[**and lots**], lots, mineral rights, and royalty interests** constitutes a levy upon the delinquent lands **[**and lots**], lots, mineral rights, and royalty interests** for the purpose of enforcing the lien of delinquent and unpaid taxes, together with penalty, interest and costs.

140.170. COUNTY COLLECTOR TO PUBLISH DELINQUENT LAND LIST — CONTENTS — SITE OF SALE — EXPENSES — PUBLISHER'S AFFIDAVIT TO BE RECORDED — EXCEPTION FOR CERTAIN PROPERTY, CONTENTS OF LIST. — 1. Except for lands described in subsection 7 of this section, the county collector shall cause a copy of the list of delinquent lands and lots to be printed in some newspaper of general circulation published in the county, for three consecutive weeks, one insertion weekly, before the sale, the last insertion to be at least fifteen days prior to the fourth Monday in August.

2. In addition to the names of all record owners or the names of all owners appearing on the land tax book it is only necessary in the printed and published list to state in the aggregate the amount of taxes, penalty, interest and cost due thereon, each year separately stated**[**, and the land therein described shall be described in forty acre tracts or other legal subdivisions, and the lots shall be described by number, block, addition, etc., except that if a part or parts of any forty acre tract or other legal subdivision or lot are assessed on the tax books to two or more parties as owners thereof, then, as to such land or lots, such list shall be so prepared and separated**]**.

3. To the list shall be attached and in like manner printed and published a notice **[**that so much**]** of said lands and lots **[**as are necessary to discharge the taxes, interest and charges which are due thereon at the time of sale will be sold at public auction**] stating that said land and lots will be sold at public auction to discharge the taxes, penalty, interest, and costs due thereon at the time of sale** in or adjacent to the courthouse of such county, on the fourth Monday in August next thereafter, commencing at ten o'clock of said day and continuing from day to day thereafter until all are offered.

4. The county collector, on or before the day of sale, shall insert at the foot of the list on his record a copy of the notice and certify on his record immediately following the notice the name of the newspaper of the county in which the notice was printed and published and the dates of insertions thereof in the newspaper.

5. The expense of such printing shall be paid out of the county treasury and shall not exceed the rate provided for in chapter 493, RSMo, relating to legal publications, notices and advertisements, and the cost of printing at the rate paid by the county shall be taxed as part of the costs of the sale of any land or lot contained in the list.

6. The county collector shall cause the affidavit of the printer, editor or publisher of the newspaper in which the list of delinquent lands and notice of sale was published, as provided by section 493.060, RSMo, with the list and notice attached, to be recorded in the office of the recorder of deeds of the county, and the recorder shall not charge or receive any fees for recording the same.

7. The county collector may have a separate list of such lands, without legal descriptions or the names of the record owners, printed in a newspaper of general circulation published in such county for three consecutive weeks before the sale of such lands for a parcel or lot of land that:

(1) Has an assessed value of five hundred dollars or less and has been advertised previously; or

(2) Is a lot in a development of twenty or more lots and such lot has an assessed value of five hundred dollars or less. The notice shall state that legal descriptions and the names of the record owners of such lands shall be posted at any county courthouse within the county and the office of the county collector.

140.190. PERIOD OF SALE — MANNER OF BIDS — PROHIBITED SALES — SALE TO NONRESIDENTS. — 1. On the day mentioned in the notice, the county collector shall commence the sale of such lands, and shall continue the same from day to day until **[**so much of**]** each parcel assessed or belonging to each person assessed, shall be sold as will pay the taxes, interest and charges thereon, or chargeable to such person in said county.

2. The person offering at said sale to pay the required sum for **[**the least quantity of any**]** **a** tract shall be considered the purchaser of such **[**quantity**]** **land**; provided, no sale shall be made to any person who is currently delinquent on any tax payments on any property, other than a delinquency on the property being offered for sale, and who does not sign an affidavit stating such at the time of sale. Failure to sign such affidavit as well as signing a false affidavit may invalidate such sale. No bid shall be received from any person not a resident of the state of Missouri until such person shall file with said collector an agreement in writing consenting to the jurisdiction of the circuit court of the county in which such sale shall be made, and also filing with such collector an appointment of some citizen of said county as agent of said purchaser, and consenting that service of process on such agent shall give such court jurisdiction to try and determine any suit growing out of or connected with such sale for taxes.

3. All such written consents to jurisdiction and selective appointments shall be preserved by the county collector and shall be binding upon any person or corporation claiming under the person consenting to jurisdiction and making the appointment herein referred to; provided further, that in the event of the death, disability or refusal to act of the person appointed as agent of said nonresident purchaser the county clerk shall become the appointee as agent of said nonresident purchaser.

140.220. COUNTY CLERK TO ACT AS CLERK OF SALE — FEE. — 1. The clerk of the county commission shall attend, either in person or by deputy, as the clerk of the sale of such delinquent land, and shall enter the same on a sufficient record book giving a description of the proper tract or lot, **[**showing how much of each was sold,**]** to whom **sold**, and the price, or whether the same remains unsold.

2. For his services as in this section provided he shall, except in those counties having a population in excess of one hundred thousand, receive the sum of twenty-five cents on each tract of land or lot sold, to become part of the costs of sale and paid by the purchaser, which fee shall include entry or recital of redemption on such record.

140.230. FORECLOSURE SALE SURPLUS — DEPOSITED IN TREASURY — ESCHEATS, WHEN. — 1. When real estate has been sold for taxes or other debt by the sheriff or collector of any county within the state of Missouri, and the same sells for a greater amount than the debt or taxes and all costs in the case**[**, and the owner or owners, agent or agents cannot be found,**]** it shall be the duty of the sheriff or collector of the county, when such sale has been or may hereafter be made, to make a written statement describing each parcel or tract of land sold by him for a greater amount than the debt or taxes and all costs in the case**[**, and for which no owner or owners, agent or agents can be found,**]** together with the amount of surplus money in

each case. The statement shall be subscribed and sworn to by the sheriff or collector making it before some officer competent to administer oaths within this state, and then presented to the county commission of the county where the sale has been or may be made; and on the approval of the statement by the commission, the sheriff or collector making the same shall pay the surplus money into the county treasury, take the receipt in duplicate of the treasurer for the overplus of money and retain one of the duplicate receipts himself and file the other with the county commission, and thereupon the commission shall charge the treasurer with the amount.

2. The treasurer shall place such moneys to the credit of the school fund of the county, to be held in trust for the term of **[**seven**]** **three** years for the owner or owners or their legal representatives. At the end of **[**seven**]** **three** years, if such fund shall not be called for, then it shall become a permanent school fund of the county.

3. County commissions shall compel owners or agents to make satisfactory proof of their claims before receiving their money; provided, that no county shall pay interest to the claimant of any such fund.

140.260. PURCHASE BY COUNTY OR CITY, WHEN — PROCEDURE. — 1. It shall be lawful for the county commission of any county, and the comptroller, mayor and president of the board of assessors of the city of St. Louis, to designate and appoint a suitable person or persons with discretionary authority to bid at all sales to which section 140.250 is applicable, and to purchase at such sales all lands or lots necessary to protect all taxes due and owing and prevent their loss to the taxing authorities involved from inadequate bids.

2. Such person or persons so designated are hereby declared as to such purchases and as titleholders pursuant to collector's deeds issued on such purchases, to be trustees for the benefit of all funds entitled to participate in the taxes against all such lands or lots so sold.

3. Such person or persons so designated shall not be required to pay the amount bid on any such purchase but the collector's deed issuing on such purchase shall recite the delinquent taxes for which said lands or lots were sold, the amount due each respective taxing authority involved, and that the grantee in such deed or deeds holds title as trustee for the use and benefit of the fund or funds entitled to the payment of the taxes for which said lands or lots were sold.

4. The costs of all collectors' deeds, the recording of same and the advertisement of such lands or lots shall be paid out of the county treasury in the respective counties and such fund as may be designated therefor by the authorities of the city of St. Louis.

5. All lands or lots so purchased shall be sold and deeds ordered executed and delivered by such trustees upon order of the county commission of the respective counties and the comptroller, mayor and president of the board of assessors of the city of St. Louis, and the proceeds of such sales shall be applied, first, to the payment of the costs incurred and advanced, and the balance shall be distributed pro rata to the funds entitled to receive the taxes on the lands or lots so disposed of.

6. Upon appointment of any such person or persons to act as trustee as herein designated a certified copy of the order making such appointment shall be delivered to the collector, and if such authority be revoked a certified copy of the revoking order shall also be delivered to the collector.

7. Compensation to trustees as herein designated shall be payable solely from proceeds derived from the sale of lands purchased by them as such trustees and shall be fixed by the authorities herein designated, but not in excess of ten percent of the price for which any such lands and lots are sold by the trustees; provided further, that if at any such sale any person bid a sufficient amount to pay in full all delinquent taxes, penalties, interest and costs, then the trustees herein designated shall be without authority to further bid on any such land or lots.

8. If the county commission of any county does not designate and appoint a suitable person or persons as trustee or trustees, so appointed, or the trustee or trustees do not accept property after the third offering where no sale occurred then it shall be at the

discretion of the collector to sell such land subsequent to the third offering of such land and lots at any time and for any amount.

140.280. PAYMENT OF TOTAL AMOUNT BY PURCHASER — PENALTY FOR FAILURE. — 1. Where such sale is made, the purchaser at such sale shall immediately pay the amount of his bid to the collector, who shall pay the surplus, if any, **[**to the person entitled thereto; or if he has doubt, or a dispute arises as to the proper person, the same shall be paid**]** into the county treasury to be held for the use and benefit of the person entitled thereto.

2. In case the purchaser fails to pay his bid, the land shall be again forthwith offered for sale the same as if no sale had been made, and the purchaser so failing shall forfeit and pay for the use of the distributive county school fund of the county a penalty of twenty-five percent of the amount of his bid, to be recovered by action of debt in the name of the collector, before any court having jurisdiction, and the prosecuting attorney shall conduct such suit, and for his services a fee of five dollars shall be taxed against such delinquent purchaser.

140.340. REDEMPTION, WHEN — MANNER. — 1. The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the **[**two years**] one year** next ensuing, in the following manner: By paying to the county collector, for the use of the purchaser, his heirs or assigns, the full sum of the purchase money named in his certificate of purchase and all the cost of the sale together with interest at the rate specified in such certificate, not to exceed ten percent annually, with all subsequent taxes which have been paid thereon by the purchaser, his heirs or assigns, with interest at the rate of eight percent per annum on such taxes subsequently paid, and in addition thereto the person redeeming any land shall pay the costs incident to entry of recital of such redemption.

2. Upon deposit with the county collector of the amount necessary to redeem as herein provided, it shall be the duty of the county collector to mail to the purchaser, his heirs or assigns, at the last post-office address if known, and if not known, then to the address of the purchaser as shown in the record of the certificate of purchase, notice of such deposit for redemption.

3. Such notice, given as herein provided, shall stop payment to the purchaser, his heirs or assigns, of any further interest or penalty.

4. In case the party purchasing said land, his heirs or assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the **[**two years**] one year** next following the date of sale, no interest shall be charged or collected from the redemptioner after that time.

140.350. REDEMPTION BY INCAPACITATED OR DISABLED PERSONS, WHEN. — Infants and incapacitated and disabled persons as defined in chapter 475, RSMo, may redeem any lands belonging to them sold for taxes, within **[**two years**] one year** after the expiration of such disability, in the same manner as provided in section 140.340 for redemption by other persons.

140.360. REDEMPTION — COMPENSATION FOR IMPROVEMENTS — LIMITATIONS. — 1. In case any lasting and valuable improvements shall have been made by the purchaser at a sale for taxes, or by any person claiming under him, and the land on which the same shall have been made shall be redeemed as aforesaid, the premises shall not be restored to the person redeeming, until he shall have paid or tendered to the adverse party the value of such improvements; and, if the parties cannot agree on the value thereof the same proceedings shall be had in relation thereto as shall be prescribed in the law existing at the time of such proceedings for the relief of occupying claimants of lands in actions of ejectment.

2. No compensation shall be allowed for improvements made before the expiration of **[**two years**] one year** from the date of sale for taxes.

140.370. REDEMPTION — RECORD OF SALE. — 1. When lands sold for taxes**[**, or any portions thereof,**]** shall be redeemed, the county collector shall insert a memorandum of such redemption on the record of the certificate of purchase applicable thereto, stating the **[**quantity or description of the portion**] land or lots** redeemed, **[**if not the whole,**]** the date thereof, and by whom made, and sign the same officially, and shall likewise give a certificate thereof to the person redeeming.

2. The person redeeming shall then present to the county clerk the certificate of redemption and the county clerk shall then enter on his record of sales of land for delinquent taxes the recital of such redemption, the date thereof, and the person redeeming.

140.405. PURCHASER OF PROPERTY AT DELINQUENT LAND TAX AUCTION, DEED ISSUED TO, WHEN — AFFIDAVIT — NOTICE OF RIGHT OF REDEMPTION — LOSS OF INTEREST, WHEN. — Any person purchasing property at a delinquent land tax auction shall not acquire the deed to the real estate, as provided for in section 140.420, until the person meets with the following requirement or until such person makes affidavit that a title search has revealed no publicly recorded deed of trust, mortgage, lease, lien or claim on the real estate. At least ninety days prior to the date when a purchaser is authorized to acquire the deed, the purchaser shall notify any person who holds a publicly recorded deed of trust, mortgage, lease, lien or claim upon that real estate of the latter person's right to redeem such person's publicly recorded security or claim. Notice shall be sent by certified mail to any such person, including one who was the publicly recorded owner of the property sold at the delinquent land tax auction previous to such sale, at such person's last known available address. Failure of the purchaser to comply with this provision shall result in such purchaser's loss of all interest in the real estate. If any real estate is purchased at a third-offering tax auction and has a publicly recorded deed of trust, mortgage, lease, lien or claim upon the real estate, the purchaser of said property at a third-offering tax auction shall notify anyone with a publicly recorded deed of trust, mortgage, lease, lien or claim upon the real estate pursuant to this section. Once the purchaser has notified the county collector by affidavit that proper notice has been given, anyone with a publicly recorded deed of trust, mortgage, lease, lien or claim upon the property shall have ninety days to redeem said property or be forever barred from redeeming said property. **If the county collector chooses to have the title search done then the county collector must comply with all provisions of section 140.405, and may charge the purchaser the cost of the title search before giving the purchaser a deed pursuant to section 140.420.**

140.410. EXECUTION AND RECORD OF DEED BY PURCHASER — FAILURE — ASSIGNMENT PROHIBITED, WHEN — RECORDING FEE REQUIRED, WHEN. — In all cases where lands have been or may hereafter be sold for delinquent taxes, penalty, interest and costs **due thereon,** and a certificate of purchase has been or may hereafter be issued**,** it is hereby made the duty of such purchaser, his heirs or assigns, to cause a deed to be executed and placed on record in the proper county within **[**four**] two** years from the date of said sale; provided, that on failure of said purchaser, his heirs or assigns so to do, then and in that case the amount due such purchaser shall cease to be a lien on said lands so purchased as herein provided. **Certificates of purchase cannot be assigned to non-residents or delinquent taxpayers. Any person purchasing property at a delinquent land tax sale shall pay to the collector the fee necessary for the recording of such collector deed to be issued. It shall be the responsibility of the collector to record the deed before delivering such deed to the purchaser of the property.**

140.420. DEED TO PURCHASER IF UNREDEEMED. — **[**1.**]** If no person shall redeem the lands sold for taxes within **[**two years**] one year** from the sale, at the expiration thereof, and on production of certificate of purchase, **[**and in case the certificate covers only a part of a tract or lot of land, then accompanied with a survey or description of such part, made by the county

surveyor,**]** the collector of the county in which the sale of such lands took place shall execute to the purchaser, his heirs or assigns, in the name of the state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all claims thereon for unpaid taxes except such unpaid taxes existing at time of the purchase of said lands and the lien for which taxes was inferior to the lien for taxes for which said tract or lot of land was sold.

[2. In making such conveyance, when two or more parcels, tracts, or lots of land are sold for the nonpayment of taxes to the same purchaser or purchasers, or the same person or persons shall in any wise become the owner of the certificates thereof, all of such parcels shall be included in one deed.**]**

140.440. PAYMENT OF TAXES BY HOLDER OF PURCHASE CERTIFICATE — SUBSEQUENT CERTIFICATE. — Every holder of a certificate of purchase shall before being entitled to apply for deed to any tract or lot of land described therein pay all taxes that have accrued thereon since the issuance of said certificate, or any prior taxes that may remain due and unpaid on said property, and the lien for which was not foreclosed by sale under which such holder makes demand for deed, and any purchaser that shall suffer a subsequent tax to become delinquent **[**and a subsequent certificate of purchase to issue on the same property included in his certificate**]**, such first purchaser shall forfeit **[**his rights of priority thereunder to the subsequent purchaser, and such subsequent purchaser shall at the time of obtaining his certificate redeem said first certificate of purchase outstanding by depositing with the county collector the amount of said first certificate with interest thereon to the date of said redemption and the amount so paid in redemption shall become a part of said subsequent certificate of purchase and draw interest at the rate specified in said first certificate but not to exceed ten percent per annum from the date of payment**] all liens on such lands so purchased**. Said holder of a certificate of purchase permitting a subsequent certificate to issue on the same property, shall, on notice from the county collector, surrender said certificate of purchase **[**on payment to him of the redemption money paid by the subsequent purchaser.**]** **immediately to the county collector. Upon surrender of such certificate of purchase any surplus moneys paid by the first holder of the certificate of purchase and remaining unclaimed pursuant to section 140.230 shall be paid without interest to such holder of the certificate.**

[140.200. WHERE OWNER HAS SEVERAL TRACTS, HOW SOLD. — When more than one tract or lot belonging to the same person is for sale at the same time, in the same municipal corporation or township, a part of one of the tracts or lots shall be offered, first for the payment of the whole sum due from the owner on all the delinquent lands or lots. If no person bids off a part of the tract or lot for the sum required, the tract or lot shall then be offered to the highest bidder for cash, and if any amount yet remains due, or if no person bids for a part or all of one tract or lot, each of the other tracts or lots shall be offered in like manner until the required sum is realized. If no one bids upon a part or all of said tracts or lots separately, enough to pay the amount due, then the whole of the tracts and lots shall be offered together and sold to pay the taxes, penalty, interest and costs thereon. This section shall be construed directory in character and a failure to comply therewith shall not of itself invalidate any sale.**]**

[140.210. QUANTITY OF LAND SOLD. — When less than the whole of any tract of land shall be sold, the quantity sold shall be in a square form, as near as practicable, at the most northwesterly corner of the tract, and when less than the whole of any in-lot or out-lot of any city or town shall be sold, the part sold shall extend from the main or principal street, road or alley, forming the most convenient front to such lot, to the rear of such lot, and so as to bound the same by lines as nearly parallel with the outlines of such lot as practicable.**]**

[140.390. REDEMPTION OF UNDIVIDED OR SPECIFIC SHARE OF LAND SOLD. — 1. Any person claiming an undivided part of any land sold for taxes may redeem the same on paying such proportion of the purchase money, interest, penalty and subsequent taxes as he shall claim of the land sold.

2. Any person claiming an undivided share in any land out of which an undivided part shall have been sold for taxes, may redeem his undivided share by paying such portion of the purchase money, interest, penalty and subsequent taxes as he claims of the land sold.

3. Any person claiming a specific part of any lands sold for taxes may redeem his specific part by paying such proportion of the purchase money, interest, penalty and subsequent taxes as his quantity of ground shall bear to the whole quantity sold.

4. Any person claiming a specific part of any lands out of which an undivided part shall have been sold for taxes charged on the whole tract or lot, may redeem his specific part by paying such proportion of purchase money, interest, penalty and subsequent taxes as his quantity of ground shall bear to the whole quantity taxed.**]**

[140.400. PARTIAL REDEMPTION — DUTY OF COLLECTOR. — In every case where a partial redemption is asked for, pursuant to section 140.390, the county collector, upon the application of the redemptioner, after notice to the holder of the certificate, shall determine the proportion to be paid by the party applying to redeem, and his decision shall be final thereon. For his services in stating the proportion, the redemptioner shall pay him fifty cents; and in every case of a partial redemption, pursuant to said section, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption, and the county collector shall convey accordingly.**]**

Approved July 3, 2003

SB 296 [HS HCS SCS SB 296]

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

Requires the state board of education to offer two levels of professional teacher certification.

AN ACT to repeal sections 161.092, 168.021, and 168.071, RSMo, and to enact in lieu thereof three new sections relating to educational standards.

SECTION

A. Enacting clause.
161.092. Powers and duties of state board.
168.021. Issuance of teachers' licenses — effect of certification in another state and subsequent employment in this state.
168.071. Revocation, suspension or refusal of certificate or license, grounds — procedure — appeal.

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

SECTION A. ENACTING CLAUSE. — Sections 161.092, 168.021, and 168.071, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 161.092, 168.021, and 168.071, to read as follows:

161.092. POWERS AND DUTIES OF STATE BOARD. — The state board of education shall:

(1) Adopt rules governing its own proceedings and formulate policies for the guidance of the commissioner of education and the department of elementary and secondary education;

(2) Carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools;

(3) Direct the investment of all moneys received by the state to be applied to the capital of any permanent fund established for the support of public education within the jurisdiction of the department of elementary and secondary education and see that the funds are applied to the branches of educational interest of the state that by grant, gift, devise or law they were originally intended, and if necessary institute suit for and collect the funds and return them to their legitimate channels;

(4) Cause to be assembled information which will reflect continuously the condition and management of the public schools of the state;

(5) Require of county clerks or treasurers, boards of education or other school officers, recorders and treasurers of cities, towns and villages, copies of all records required to be made by them and all other information in relation to the funds and condition of schools and the management thereof that is deemed necessary;

(6) Provide blanks suitable for use by officials in reporting the information required by the board;

(7) When conditions demand, cause the laws relating to schools to be published in a separate volume, with pertinent notes and comments, for the guidance of those charged with the execution of the laws;

(8) Grant, without fee **except as provided in section 168.021, RSMo**, certificates of qualification and licenses to teach in any of the public schools of the state, establish requirements therefor, formulate regulations governing the issuance thereof, **[**including, upon an appropriate background check, provisional certification to a person who holds a valid teaching certificate from another state and has five years of teaching experience in the same school district in the curriculum area and approximate grade level in another state, providing for full certification upon the satisfactory completion of five years of teaching in Missouri public schools,**]** and cause the certificates to be revoked for the reasons and in the manner provided in section 168.071, RSMo;

(9) Classify the public schools of the state, subject to limitations provided by law, establish requirements for the schools of each class, and formulate rules governing the inspection and accreditation of schools preparatory to classification**, with such requirements taking effect not less than two years from the date of adoption of the proposed rule by the state board of education, provided that this condition shall not apply to any requirement for which a timeline for adoption is mandated in either federal or state law**;

(10) Make an annual report on or before the first Wednesday after the first day of January to the general assembly or, when it is not in session, to the governor for publication and transmission to the general assembly. The report shall be for the last preceding school year, and shall include:

(a) A statement of the number of public schools in the state, the number of pupils attending the schools, their sex, and the branches taught;

(b) A statement of the number of teachers employed, their sex, their professional training, and their average salary;

(c) A statement of the receipts and disbursements of public school funds of every description, their sources, and the purposes for which they were disbursed;

(d) Suggestions for the improvement of public schools; and

(e) Any other information relative to the educational interests of the state that the law requires or the board deems important;

(11) Make an annual report to the general assembly and the governor concerning coordination with other agencies and departments of government that support family literacy programs and other services which influence educational attainment of children of all ages;

(12) Require from the chief officer of each division of the department of elementary and secondary education, on or before the thirty-first day of August of each year, reports containing information the board deems important and desires for publication;

(13) Cause fifty copies of its annual report to be reserved for the use of each division of the state department of elementary and secondary education, and ten copies for preservation in the state library;

(14) Have other powers and duties prescribed by law.

168.021. ISSUANCE OF TEACHERS' LICENSES — EFFECT OF CERTIFICATION IN ANOTHER STATE AND SUBSEQUENT EMPLOYMENT IN THIS STATE. — 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid **[**doctor of philosophy**]** **doctoral** degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to **[**section 168.033 if appropriate**]** **rules adopted by the state board of education**, and shall be restricted to those certificates established pursuant to **[**subdivisions (1) and (2)**]** **subdivision (1)** of subsection **[**4**]** **3** of this section; or

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;

(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall **be exempt from the professional development requirements of this section and shall** continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. **Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.**

3. **[**Any teacher holding a third class county certificate in the state during the 1972-73 school year shall upon his written request be given an examination by a person designated by the state commissioner of education to determine his eligibility to be granted a certificate of license to teach. The examination shall be comparable to those given by county superintendents to eligible applicants prior to July 1, 1974. Upon successful completion of the examination the applicant shall be issued a certificate by the state board of education entitling the holder to teach in the public schools of the state for a period of three years. A request for such examination must be presented to the commissioner of education on or before March first of the year in which the examination is to be administered. The commissioner of education shall cause the examination

to be administered and the certificate issued to those successfully completing it prior to April first of the year in which the application for the examination was received.

4. After September 1, 1988,**]** Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education **[**which**]. The state board** shall provide for **the following** levels of **professional** certification **[**including, but not limited to,**]:** an initial professional certificate and **[**culminating with**]** a **career** continuous professional certificate**[**:**].**

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education**[**;**]. The state board shall require holders of the four year initial professional certificate to:**

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum; and

(c) Participate in a beginning teacher assistance program;

(2) **[**One or more levels of renewable professional certificates shall be issued upon verification of completion of criteria established by the state board of education;

(3)**] (a)** The **career** continuous professional certificate shall be issued upon verification of completion of **[**criteria, which shall not exceed a master's degree or its equivalent and ten years' employment in an educational position, established by the state board of education**] four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1) of this subsection**.

(b) The **career** continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines**[**.**] and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.**

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

a. Has ten years of teaching experience as defined by the state board of education;

b. Possesses a master's degree; or

c. Obtains a rigorous national certification as approved by the state board of education.

[5.**] 4.** Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures **[**for**] allowing** a teacher who has not been employed in an educational position for three years or more **[**for reasons other than reduction in force**] to**

reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

[6.**]** **5.** The state board shall**, upon an appropriate background check, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall** establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach.

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, RSMo, for the issuance of the career continuous professional certificate. However, such fee shall not exceed the combined costs of issuance and any criminal background check required as a condition of issuance.

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

168.071. REVOCATION, SUSPENSION OR REFUSAL OF CERTIFICATE OR LICENSE, GROUNDS — PROCEDURE — APPEAL. — 1. 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; **enticement of a child; or attempting to entice a child;**

(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. When a certificate holder pleads guilty or is found guilty of any offense that would authorize the state board of education to seek discipline against that holder's certificate of license to teach, the local board of education or the department of elementary and secondary education shall immediately provide written notice to the state board of education and the attorney general regarding the plea of guilty or finding of guilty.

[7.**]** **8.** 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.**]** **9.** 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.**]** **10.** 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.**]** **11.** 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.**]** **12.** The final decision of the state board of education is subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

[12.**]** **13.** 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.

Approved June 26, 2003

SB 298 [CCS HCS SS SCS SB 298]

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

Revises liquor license requirements, operational restrictions, and enforcement provisions.

AN ACT to repeal sections 311.080, 311.097, 311.098, 311.102, 311.195, 311.200, 311.260, 311.280, 311.290, 311.293, 311.325, 311.328, 311.360, 311.401, 311.480, 311.630, 312.407, and 312.410, RSMo, and to enact in lieu thereof twenty-two new sections relating to liquor control, with penalty provisions.

SECTION

A. Enacting clause.
311.080. Sale of liquor prohibited near schools and churches, exceptions.
311.097. Restaurant bar and certain transient guest accommodations, Sunday sales, when — restaurant bar defined — temporary license, new business, when — sports stadium, certain counties, special provisions.
311.098. Amusement places, Sunday sales, when, limitation — amusement place defined — temporary license, new business, when.
311.102. Place of entertainment — Sunday sales by the drink on premises — place of entertainment defined — license requirements, fee (St. Louis City, Jackson County, St. Louis County, Kansas City).
311.195. Microbrewery, defined — license, fee — retail license allowed, procedure — sale to wholesalers allowed, when — certain exemptions, when.
311.200. Licenses — retail liquor dealers — fees — applications.
311.260. More than three licenses by any one person prohibited, exception.
311.280. Unlawful for licensed retailer to purchase from other than licensed wholesaler — prohibitions.
311.290. Time fixed for opening and closing premises — closed place defined — penalty.
311.293. Sunday sales, package liquor licensee allowed, hours, fee — city or county may also charge fee, limitations.
311.325. Purchase or possession by minor, a misdemeanor — container need not be opened and contents verified, when — burden of proof on violator to prove not intoxicating liquor.
311.328. Identification, acceptable forms.
311.360. Misrepresentation of brand of liquor unlawful, penalty.
311.401. Repossessed liquor, sale by lending institution, when — no license required.

311.480. Eating places, drinking of intoxicating and nonintoxicating liquor on premises, license required, when, hours — regulations — exceptions.
311.615. Division of alcohol and tobacco control established, duties.
311.630. Peace officers — authorized to make arrests for certain violations — method of selection — duty of supervisor.
312.407. Purchase or possession by minor, a misdemeanor — sealed containers need not be opened, when.
312.410. Sales prohibited between certain hours.
573.509. Adult cabaret, persons less than nineteen years of age prohibited from dancing, penalty.
1. Labeling of kegs sold at retail for off-premise consumption, procedures.
2. Sunday liquor sales by the drink, permitted when (St. Louis City, Kansas City).

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

SECTION A. ENACTING CLAUSE. — Sections 311.080, 311.097, 311.098, 311.102, 311.195, 311.200, 311.260, 311.280, 311.290, 311.293, 311.325, 311.328, 311.360, 311.401, 311.480, 311.630, 312.407, and 312.410, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 311.080, 311.097, 311.098, 311.102, 311.195, 311.200, 311.260, 311.280, 311.290, 311.293, 311.325, 311.328, 311.360, 311.401, 311.480, 311.615, 311.630, 312.407, 312.410, 573.509, 1 and 2, to read as follows:

311.080. SALE OF LIQUOR PROHIBITED NEAR SCHOOLS AND CHURCHES, EXCEPTIONS. — 1. No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within one hundred feet of any school, church or other building regularly used as a place of religious worship, **[**unless the applicant for the license shall first obtain the consent in writing of the board of directors of the school, or the consent in writing of the majority of the managing board of the church or place of worship;**]** except that when a school, church or place of worship shall hereafter be established within one hundred feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied **[**for lack of consent in writing as herein provided**] for this reason**.

2. The board of aldermen, city council or other proper authorities, of any incorporated city, town or village, may by ordinance, prohibit the granting of a license for the sale of intoxicating liquor within a distance as great as three hundred feet **of any school, church, or other building regularly used as a place of religious worship**. In such cases, and where the ordinance has been lawfully enacted, no license of any character shall **[**issue**] be issued** in conflict with the ordinance while it is in effect; except, that when a school, church or place of worship is established within the prohibited distance from any place of business licensed to sell intoxicating liquor, the license shall not be denied **[**for lack of consent in writing as herein provided**] for this reason**.

3. Subsection 1 of this section shall not apply to a holder of a license issued pursuant to section 311.090, section 311.218, section 311.482, or to any premises holding a license issued before January 1, 2004, by the supervisor of alcohol and tobacco control for the sale of intoxicating liquor.

311.097. RESTAURANT BAR AND CERTAIN TRANSIENT GUEST ACCOMMODATIONS, SUNDAY SALES, WHEN — RESTAURANT BAR DEFINED — TEMPORARY LICENSE, NEW BUSINESS, WHEN — SPORTS STADIUM, CERTAIN COUNTIES, SPECIAL PROVISIONS. — 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 control may issue, a license to sell intoxicating liquor, as in this chapter defined, between the hours of **[**11:00**] 9:00** a.m. on Sunday and midnight on Sunday by the drink at retail for consumption on the premises of any restaurant bar as described in the application **or on the premises of any establishment having at least forty rooms for the overnight accommodations of transient guests**. As used in this section, the term "restaurant bar" means any establishment having a

restaurant or similar facility on the premises at least fifty percent of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars from the sale of prepared meals or food consumed on such premises.

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 a restaurant bar **or on the premises of any establishment having at least forty rooms for the overnight accommodations of transient guests** in the same manner as they apply to establishments licensed under sections 311.085, 311.090 and 311.095, and in addition to all other fees required by law, a restaurant bar **or on the premises of any establishment having at least forty rooms for the overnight accommodations of transient guests** shall pay an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other license fees.

3. Any new restaurant bar having been in operation for less than ninety days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of **[**11:00**]** **9:00** a.m. and midnight on Sunday for a period not to exceed ninety days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than two hundred thousand dollars. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

4. In counties of the first class having a charter form of government and which contain all or a part of a city having a population of at least three hundred fifty thousand, any restaurant bar licensed under the provisions of this section which is located on the grounds of a sports stadium primarily used for professional sporting events may sell intoxicating liquor by the drink at retail for consumption within the premises of the restaurant bar on Sunday between the hours of **[**11:00**]** **8:00** a.m. and 12:00 midnight notwithstanding the hours of limitation set forth in subsection 1 of this section.

5. The provisions of this section regarding the time of closing shall not apply to any person who possesses a special permit issued under section 311.174, 311.176, or 311.178.

311.098. AMUSEMENT PLACES, SUNDAY SALES, WHEN, LIMITATION — AMUSEMENT PLACE DEFINED — TEMPORARY LICENSE, NEW BUSINESS, WHEN. — 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**]** **alcohol and tobacco** control may issue, a license to sell intoxicating liquor, as defined in this chapter, between the hours of **[**11:00 a.m.**]** **9:00 a.m.** and midnight on Sunday by the drink at retail for consumption on the premises of any amusement place as described in the application. As used in this section the term "amusement place" means any establishment whose business building contains a square footage of at least six thousand square feet, and where games of skill commonly known as billiards, volleyball, indoor golf, bowling or soccer are usually played, or has a dance floor of at least two thousand five hundred square feet, or any outdoor golf course with a minimum of nine holes, and which has annual gross receipts of at least one hundred thousand dollars of which at least fifty thousand dollars of such gross receipts is in nonalcoholic sales.

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 an amusement place in the same manner as they apply to establishments licensed under sections 311.085, 311.090 and 311.095, and in addition to all other fees required by law, an amusement place 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.

3. Any new amusement place having been in operation for less than ninety days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of **[**11:00 a.m.**]** **9:00 a.m.** and midnight on Sunday for a period not to exceed ninety days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars of which at least fifty thousand dollars of such gross receipts are in nonalcoholic sales for the first year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

311.102. PLACE OF ENTERTAINMENT — SUNDAY SALES BY THE DRINK ON PREMISES — PLACE OF ENTERTAINMENT DEFINED — LICENSE REQUIREMENTS, FEE (ST. LOUIS CITY, JACKSON COUNTY, ST. LOUIS COUNTY, KANSAS CITY). — 1. Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter may apply for, and the supervisor of **[**liquor**]** **alcohol and tobacco** control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on the premises of any place of entertainment, as defined in this section, between the hours of **[**11:00 a.m.**]** **9:00 a.m.** on Sunday and midnight on Sunday. As used in this section, the term "place of entertainment" means any establishment located in a city not within a county or in a county of the first classification having a charter form of government with a population of at least nine hundred thousand or more inhabitants or in a county of the first classification having a charter form of government containing any portion of a city with a population of three hundred eighty thousand or more or in any city with a population of three hundred eighty thousand or more which is located in more than one county **[**which has occupancy capacity for patrons of at least three hundred and**]** which has gross annual sales in excess of two hundred fifty thousand dollars and the establishment has been in operation for at least one year.

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 a place of entertainment 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 place of entertainment shall pay an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other license fees.

311.195. MICROBREWERY, DEFINED — LICENSE, FEE — RETAIL LICENSE ALLOWED, PROCEDURE — SALE TO WHOLESALERS ALLOWED, WHEN — CERTAIN EXEMPTIONS, WHEN. — 1. As used in this section, the term "microbrewery" means a business whose primary activity is the brewing and selling of beer, with an annual production of ten thousand barrels or less.

2. A microbrewer's license shall authorize the licensee to manufacture beer and malt liquor in quantities not to exceed ten thousand barrels per annum. In lieu of the charges provided in section 311.180, a license fee of five dollars for each one hundred barrels or fraction thereof, up to a maximum license fee of two hundred fifty dollars, shall be paid to and collected by the director of revenue.

3. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, the holder of a microbrewer's license may apply for, and the supervisor of **[**liquor**]** **alcohol and tobacco** control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on the **[**brewery**]** premises **[**and in the original package for off-premises consumption**]**. **No holder of a microbrewer's license, or any employee, officer, agent, subsidiary, or affiliate thereof, shall have more than ten licenses to sell intoxicating liquor by the drink at retail for consumption on the premises.** The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they

apply to establishments licensed under the provisions of section 311.085, 311.090, 311.095, or 311.097.

4. The holder of a microbrewer's license may also sell beer and malt liquor produced on the brewery premises to duly licensed wholesalers. However, holders of a microbrewer's license shall not, under any circumstances, directly or indirectly, have any financial interest in any wholesaler's business, and all such sales to wholesalers shall be subject to the restrictions of sections 311.181 and 311.182.

5. A microbrewer who is a holder of a license to sell intoxicating liquor by the drink at retail for consumption on the premises shall be exempt from the provisions of section 311.280 for such intoxicating liquor that is produced on the premises in accordance with the provisions of this chapter. For all other intoxicating liquor sold by the drink at retail for consumption on the premises that the microbrewer possesses a license for, must be obtained in accordance with section 311.280.

311.200. LICENSES — RETAIL LIQUOR DEALERS — FEES — APPLICATIONS. — 1. No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: A drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this law. For every license for sale at retail in the original package, the licensee shall pay to the director of revenue the sum of one hundred dollars per year.

2. For a permit authorizing the sale of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight by grocers and other merchants and dealers in the original package direct to consumers but not for resale, **[**fifteen**] a fee of fifty** dollars per year **payable to the director of the department of revenue shall be required**. The phrase "original package" shall be construed and held to refer to any package containing three or more standard bottles of beer. This license shall also permit the holders thereof to sell nonintoxicating beer in the original package direct to consumers, but not for resale. **Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.**

3. **For every license issued for the sale of malt liquor at retail by drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year, which license shall also permit the holder thereof to sell nonintoxicating beer as defined in chapter 312, RSMo. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.**

4. For every license issued for the sale of malt liquor and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of **[**thirty-five**] fifty** dollars per year, which license shall also permit the holder thereof to sell nonintoxicating beer as defined in chapter 312, RSMo.

[4.**] 5.** For every license issued for the sale of all kinds of intoxicating liquor, at retail by the drink for consumption on premises of the licensee, the licensee shall pay to the director of revenue the sum of three hundred dollars per year, which shall include the sale of intoxicating liquor in the original package.

[5.**]** **6.** For every license issued to any railroad company, railway sleeping car company operated in this state, for sale of all kinds of intoxicating liquor, as defined in this chapter, at retail for consumption on its dining cars, buffet cars and observation cars, the sum of one hundred dollars per year; except that such license shall not permit sales at retail to be made while such cars are stopped at any station. A duplicate of such license shall be posted in every car where such beverage is sold or served, for which the licensee shall pay a fee of one dollar for each duplicate license.

[6.**]** **7.** All applications for licenses shall be made upon such forms and in such manner as the supervisor of **[**liquor**]** **alcohol and tobacco** control shall prescribe. No license shall be issued until the sum prescribed by this section for such license shall be paid to the director of revenue.

311.260. MORE THAN THREE LICENSES BY ANY ONE PERSON PROHIBITED, EXCEPTION. — **1.** No person **[**or**]**, corporation, **[**or any**]**, employee, officer, agent, subsidiary, or affiliate thereof, shall**:**

(1) Have more than three licenses**[**, nor**]**; or

(2) Be directly or indirectly interested in any business of any other person **[**or**]**, corporation, or **[**of any**]**, employee, officer, agent, subsidiary, or affiliate thereof, **[**to sell**]** **who sells** intoxicating liquor, at retail by the drink for consumption on the premises described in any license**[**, nor shall any**]**; or

(3) Sell intoxicating liquor **[**be sold**]** at retail by the drink for consumption at the place of sale at more than three places in this state**[**, by any person or corporation, or by any employee, officer, agent, subsidiary, or affiliate thereof, except that,**]**.

2. Notwithstanding any other provision of this chapter or municipal ordinance to the contrary, **[**in**]** **for the purpose of** determining whether **[**any**]** **a** person, corporation, **[**or any**]** employee, officer, agent, subsidiary, or affiliate thereof, has a disqualifying interest in more than three licenses **pursuant to subsection 1 of this section**, there shall not be counted any license to sell intoxicating liquor at retail by the drink for consumption on **the following** premises **[**which include a restaurant**]**:

(1) Restaurants where at least fifty percent of the gross income of which is derived from the sale of prepared meals or food consumed on **the** premises where sold**;** or

(2) Establishments which **[**has**]** **have** an annual gross income of at least two hundred thousand dollars from the sale of prepared meals or food consumed on **the** premises where sold**[**, or which include a facility**]**; or

(3) Facilities designed for the performance of live entertainment and where the receipts for admission to such performances exceed one hundred thousand dollars per calendar year**; or**

(4) Any establishment having at least forty rooms for the overnight accommodation of transient guests.

311.280. UNLAWFUL FOR LICENSED RETAILER TO PURCHASE FROM OTHER THAN LICENSED WHOLESALER — PROHIBITIONS. — **1.** It shall be unlawful for any person in this state holding a retail liquor license to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this state. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this section. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

2. Any retailer licensed pursuant to this chapter shall not:

(1) Sell intoxicating liquor or nonintoxicating beer with an alcohol content of less than five percent by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart, or cut apart; or

(2) Repackage intoxicating liquor or nonintoxicating beer with an alcohol content of less than five percent by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

311.290. TIME FIXED FOR OPENING AND CLOSING PREMISES — CLOSED PLACE DEFINED — PENALTY. — **[**1.**]** No person having a license **[**under this law**]** **issued pursuant to this chapter or chapter 312, RSMo**, nor any employee of such person, **[**except as provided in subsection 2 of this section,**]** shall sell, give away, or **[**otherwise dispose of, or suffer the same to be done upon or about his premises**]** **permit the consumption of**, any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday**, upon or about his or her premises**. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.

[2. Any person licensed pursuant to section 311.200 shall not be permitted to sell, give away, or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday.**]**

311.293. SUNDAY SALES, PACKAGE LIQUOR LICENSEE ALLOWED, HOURS, FEE — CITY OR COUNTY MAY ALSO CHARGE FEE, LIMITATIONS. — 1. Notwithstanding the provisions of **[**section 311.290 or**]** any **[**other**]** law to the contrary, any person possessing the qualifications and meeting the requirements of this chapter, who is licensed to sell intoxicating liquor in the original package at retail **[**under**]** **pursuant to** section 311.200, may apply to the supervisor of **[**liquor**]** **alcohol and tobacco** control for a special license to sell intoxicating liquor in the original package at retail between the hours of **[**11:00 a.m.**]** **9:00 a.m.** and midnight on Sundays. A licensee under this section shall pay to the director of revenue an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. In addition to any fee collected pursuant to section 311.220, a city or county may charge and collect an additional fee not to exceed three hundred dollars from any licensee under this section for the privilege of selling intoxicating liquor in the original package at retail between the hours of **[**11:00**]** **9:00** a.m. and midnight on Sundays in such city or county; however the additional fee shall not exceed the fee charged by that city or county for a special license issued pursuant to any provision of this chapter which allows a licensee to sell intoxicating liquor by the drink for consumption on the premises of the licensee on Sundays.

311.325. PURCHASE OR POSSESSION BY MINOR, A MISDEMEANOR — CONTAINER NEED NOT BE OPENED AND CONTENTS VERIFIED, WHEN — BURDEN OF PROOF ON VIOLATOR TO PROVE NOT INTOXICATING LIQUOR. — **1.** Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his possession, any intoxicating liquor as defined in section 311.020 is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that

there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

311.328. IDENTIFICATION, ACCEPTABLE FORMS. — 1. **[**The**] A valid and unexpired** operator's or chauffeur's license issued under the provisions of section 302.177, RSMo, or **[**the**] a valid and unexpired** operator's or chauffeur's license issued under the laws of **[**the states of Arkansas, Illinois, Oklahoma, Kansas, or Iowa**] any state or territory of the United States** to residents of those states **or territories**, or **[**an**] a valid and unexpired** identification card as provided for under section 302.181, RSMo, or **[**the**] a valid and unexpired** identification card issued by any uniformed service of the United States, or a valid **and unexpired** passport shall be presented by the holder thereof upon request of any agent of the division of **[**liquor**] alcohol and tobacco** control or any licensee or the servant, agent or employee thereof for the purpose of aiding the licensee or the servant, agent or employee to determine whether or not the person is at least twenty-one years of age when such person desires to purchase or consume alcoholic beverages procured from a licensee. Upon such presentation the licensee or the servant, agent or employee thereof shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

2. Upon proof by the licensee of full compliance with the provisions of this section, no penalty shall be imposed if the supervisor of the division of **[**liquor**] alcohol and tobacco** control or the courts are satisfied that the licensee acted in good faith.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not more than one year, or by both such fine and imprisonment.

311.360. MISREPRESENTATION OF BRAND OF LIQUOR UNLAWFUL, PENALTY. — **[**1.**]** No person holding a license or permit shall sell malt liquor, or any other intoxicating liquor in this state, or shall offer for sale any such malt liquor, or other intoxicating liquor, whatsoever, brewed, manufactured or distilled by one manufacturer, in substitution for, or with the representation that any such malt liquor or other intoxicating liquor, is the product of any other brewer, manufacturer or distiller. Whosoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor.

[2. Any malt liquor which is offered for sale in this state and manufactured at other than a facility owned by the person whose name appears on the label of the container shall include on the label the name and location of the owner of the facility which produced and packaged the malt liquor. This subsection shall become effective January 1, 1997.**]**

311.401. REPOSSESSED LIQUOR, SALE BY LENDING INSTITUTION, WHEN — NO LICENSE REQUIRED. — Any lending institution doing business with any distiller, wholesaler, winemaker, brewer, or retailer in Missouri duly licensed under this chapter shall have the right to sell

intoxicating liquor which such lending institution has repossessed to a retailer duly licensed under this chapter, with the approval of the supervisor of **[**liquor**]** **alcohol and tobacco** control, provided such liquor was originally taken as collateral for a business loan. No license or permit shall be required for such sale, and such sale shall be limited to cases, kegs, or barrels of such liquor, and any leftover unopened containers. Such transaction shall be subject to the provisions of chapter 400, RSMo. As used in this section, the term "lending institution" means any bank or trust company incorporated under the laws of this state or of the United States**[**, any savings and loan association incorporated under the laws of this state or under federal charter, any credit union operating under the laws of this state or the United States, and any other person, firm, or corporation authorized to make business loans in this state and to take collateral therefor**]**.

311.480. EATING PLACES, DRINKING OF INTOXICATING AND NONINTOXICATING LIQUOR ON PREMISES, LICENSE REQUIRED, WHEN, HOURS — REGULATIONS — EXCEPTIONS. — 1. It shall be unlawful for any person operating any premises where food, beverages or entertainment are sold or provided for compensation, who does not possess a license for the sale of intoxicating liquor **or nonintoxicating beer**, to permit the drinking or consumption of intoxicating liquor **or nonintoxicating beer,** in **[**, on, or about**]** the premises **[**between 10:00 p.m. and 6:00 a.m. the following day**]**, without having a license as in this section provided.

2. Application for such license shall be made to the supervisor of **[**liquor**]** **alcohol and tobacco** control on forms to be prescribed by him, describing the premises to be licensed and giving all other reasonable information required by the form. The license shall be issued upon the payment of the fee required in this section. A license shall be required for each separate premises and shall expire on the thirtieth day of June next succeeding the date of such license. The license fee shall be sixty dollars per year and the applicant shall pay five dollars for each month or part thereof remaining from the date of the license to the next succeeding first of July. Applications for renewals of licenses shall be filed on or before the first of May of each year.

3. The drinking or consumption of intoxicating liquor **or nonintoxicating beer** shall not be permitted in or **[**,**]** upon **[**, or about**]** the licensed premises by any person under twenty-one years of age, or by any other person between the hours of 1:30 a.m. and 6:00 a.m. on any weekday, and between the hours of **[**12:00 midnight Saturday**]** **1:30 a.m. Sunday** and **[**12:00 midnight Sunday**]** **6:00 a.m. Monday**. Licenses issued hereunder shall be conditioned upon the observance of the provisions of this section and the regulations promulgated thereunder governing the conduct of premises licensed for the sale of intoxicating liquor **or nonintoxicating beer** by the drink. The provision of this section regulating the drinking or consumption of intoxicating liquor **or nonintoxicating beer** between certain hours and on Sunday shall apply also to premises licensed under this chapter to sell intoxicating liquor **or nonintoxicating beer** by the drink. In any incorporated city having a population of more than twenty thousand inhabitants, the board of aldermen, city council, or other proper authorities of incorporated cities may, in addition to the license fee required in this section, require a license fee not exceeding three hundred dollars per annum, payable to the incorporated cities, and provide for the collection thereof; make and enforce ordinances regulating the hours of consumption of intoxicating liquors **or nonintoxicating beer** on premises licensed hereunder, not inconsistent with the other provisions of this law, and provide penalties for the violation thereof. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village.

4. Any premises operated in violation of the provisions of this section, or where intoxicating liquor **or nonintoxicating beer** is consumed in violation of this section, is hereby declared to be a public and common nuisance, and it shall be the duty of the supervisor of **[**liquor**]** **alcohol and tobacco** control and of the prosecuting or circuit attorney of the city of St. Louis, and the prosecuting attorney of the county in which the premises are located, to enjoin such nuisance.

5. Any person operating any premises, or any employee, agent, representative, partner, or associate of such person, who shall knowingly violate any of the provisions of this section, or any of the laws or regulations herein made applicable to the conduct of such premises, is guilty of a class A misdemeanor.

6. The supervisor of **[**liquor**]** **alcohol and tobacco** control is hereby empowered to promulgate regulations necessary or reasonably designed to enforce or construe the provisions of this section, and is empowered to revoke or suspend any license issued hereunder, as provided in this chapter, for violation of this section or any of the laws or regulations herein made applicable to the conduct of premises licensed hereunder.

7. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor **or nonintoxicating beer** during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor or nonintoxicating beer at retail.

8. No intoxicating liquor **or nonintoxicating beer** may be served or sold on any premises used as a polling place on election day.

311.615. DIVISION OF ALCOHOL AND TOBACCO CONTROL ESTABLISHED, DUTIES. — There shall be a division within the department of public safety known as the "Division of Alcohol and Tobacco Control", which shall have as its chief executive officer the supervisor of alcohol and tobacco control appointed pursuant to section 311.610. All references to the division of alcohol and tobacco control and the supervisor of alcohol and tobacco control in the statutes shall mean the division of alcohol and tobacco control and supervisor of alcohol and tobacco control.

311.630. PEACE OFFICERS — AUTHORIZED TO MAKE ARRESTS FOR CERTAIN VIOLATIONS — METHOD OF SELECTION — DUTY OF SUPERVISOR. — 1. The supervisor of **[**liquor**]** **alcohol and tobacco** control and employees to be selected and designated as peace officers by the supervisor of **[**liquor**]** **alcohol and tobacco** control are hereby declared to be peace officers of the state of Missouri, with full power and authority to make arrests **and searches and seizures** only for violations of the provisions of chapters 311 and 312, RSMo, relating to intoxicating liquors and nonintoxicating beer, **[**and to make searches and seizures thereunder,**]** **and sections 407.924 to 407.934, RSMo, relating to tobacco products,** and to serve any process connected with the enforcement of such laws. The peace officers so designated shall have been previously appointed and qualified under the provisions of section 311.620 and shall **[**have completed the mandatory standards for the basic training and certification of peace officers established by the peace officers standards and training commission**]** **be required to hold a valid peace officer license pursuant to chapter 590, RSMo**.

2. The supervisor of **[**liquor**]** **alcohol and tobacco** control shall furnish such peace officers with credentials showing their authority and a special badge, which they shall carry on their person at all times while on duty. The names of the peace officers so designated shall be made a matter of public record in the office of the supervisor of **[**liquor**]** **alcohol and tobacco** control.

3. All fees for the arrest and transportation of persons arrested and for the service of writs and process shall be the same as provided by law in criminal proceedings and shall be taxed as costs.

312.407. PURCHASE OR POSSESSION BY MINOR, A MISDEMEANOR — SEALED CONTAINERS NEED NOT BE OPENED, WHEN. — **1.** Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his possession, any nonintoxicating beer as defined in section 312.010, is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of nonintoxicating beer to a person under twenty-one years of age, a manufacturer-sealed container

describing that there is nonintoxicating beer therein need not be opened or the contents therein tested to verify that there is nonintoxicating beer in such container. The alleged violator may allege that there was not nonintoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is nonintoxicating beer therein contains nonintoxicating beer.

2. For purposes of determining violations of any provisions of this chapter or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is nonintoxicating beer therein need not be opened or the contents therein tested to verify that there is nonintoxicating beer in such container. The alleged violator may allege that there was not nonintoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is nonintoxicating beer therein contains nonintoxicating beer.

312.410. SALES PROHIBITED BETWEEN CERTAIN HOURS. — No person having a license under the provisions of this chapter, shall sell, give away or **[**otherwise dispose of, or suffer the same to be done, upon or about his premises**] permit the consumption of**, any nonintoxicating beer in any quantity between the hours of one-thirty a.m., and six a.m., **upon or about his or her premises,** and any person violating any provision of this section shall be deemed guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a term of not more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.

573.509. ADULT CABARET, PERSONS LESS THAN NINETEEN YEARS OF AGE PROHIBITED FROM DANCING, PENALTY. — 1. No person less than nineteen years of age shall dance in an adult cabaret as defined in section 573.500, nor shall any proprietor of such establishment permit any person less than nineteen years of age to dance in an adult cabaret.

2. Any person who violates the provisions of subsection 1 of this section is guilty of a class A misdemeanor.

SECTION 1. LABELING OF KEGS SOLD AT RETAIL FOR OFF-PREMISE CONSUMPTION, PROCEDURES. — 1. As used in this section, the following terms shall mean:

(1) "Keg", any container capable of holding four gallons or more of beer, wine, or intoxicating liquor and which is designed to dispense beer, wine, or intoxicating liquor directly from the container for purposes of consumption;

(2) "Supervisor of alcohol and tobacco control", the person appointed pursuant to section 311.610, RSMo.

2. Each keg sold at retail for off-premise consumption shall be labeled with the name and address of the retail licensee and an identification number. The division of alcohol and tobacco control may prescribe the form of the labels to be used for this purpose. The label shall be affixed to a recyclable tag that is attached to the handle on the top chime of the keg. The label and recyclable tag shall be supplied by the division of alcohol and tobacco control without fee and securely affixed to the keg by the licensee making the sale.

3. Each retail licensee shall require each keg purchaser to present positive identification at the time of purchase. The licensee shall record for each keg sale the date of sale, the size of keg, any applicable keg identification number if available, the amount of container deposit, the name, address, and date of birth of the purchaser, and the form of identification presented by such purchaser. The purchaser shall sign a statement at the time of purchase attesting to the accuracy of the purchaser's name and address and acknowledging that misuse of the keg or its contents may result in civil liability, criminal

prosecution, or both. The licensee shall retain the identification form for a minimum of three months following the sale of the keg.

4. The licensee shall not refund a deposit for a keg that is returned without the required label and identification number intact and legible. The licensee shall record the date of return of the keg and the condition of the label and identification number on the identification form required pursuant to subsection 2 of this section. The licensee may retain any deposit not refunded for this reason. Upon the return of a properly labeled keg from a consumer, the licensee shall remove the tag from the keg and retain such tag with the identification form as required pursuant to subsection 2 of this section. This requirement shall not apply to permanent identification numbers or other forms of identification placed on the keg by a manufacturer.

5. The supervisor shall promulgate rules and regulations for the administration of this section and shall design all necessary forms. No rule, regulation, or portion of a rule or regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

6. The provisions of this section shall become effective on July 1, 2004.

7. This section shall fully preempt and supersede any ordinances, rules, or regulations made by any city, county, or other political subdivision of the state of Missouri which regulate the selling, labeling, or registering of kegs. This section shall not impose any new or additional civil or criminal liability upon the retail licensee.

SECTION 2. SUNDAY LIQUOR SALES BY THE DRINK, PERMITTED WHEN (ST. LOUIS CITY, KANSAS CITY). — Any establishment possessing or qualifying for a license to sell intoxicating liquor by the drink at retail in any city not within a county, any home rule city with more than four hundred thousand inhabitants and located in more than one county and if such establishment is also located in a resort area, convention trade area, or enterprise zone area, the establishment may apply for a Sunday by the drink license between the hours of 9:00 a.m. and midnight on Sunday. The business establishment's annual gross receipts for the year immediately preceding the application for the Sunday by the drink license shall not have been less than one hundred fifty thousand dollars of which at least sixty thousand dollars of such gross receipts is in non-alcoholic sales. Any new licensee possessing a license to sell intoxicating liquor by the drink at retail may apply for a temporary Sunday by the drink license and shall show a projection of annual gross receipts of not less than one hundred fifty thousand dollars of which at least sixty thousand dollars of such gross receipts is in non-alcoholic sales. The license fee for such Sunday by the drink license shall be six hundred dollars per year. The license fee shall be prorated for the period of the license based on the cost of the annual license for the establishment.

Approved July 9, 2003

SB 299 [CCS HS SCS SB 299 & 40]

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

Requires performance-based budgeting and creates the Sunset Act.

AN ACT to repeal sections 33.210, 33.270, 33.800, 33.803, 33.805, 33.807, and 33.810, RSMo, and to enact in lieu thereof twenty-two new sections relating to performance-based budgeting.

SECTION

A. Enacting clause.
23.250. Title.
23.253. New programs to sunset, when — definitions — reauthorized programs, effect of — review of programs, when.
23.256. Information to be reported by agencies to joint committee on legislative research, when.
23.259. Sunsetting of programs, duties of the committee.
23.262. Public hearings conducted for sunsetting programs, when.
23.265. Report to general assembly on sunsetting programs, content.
23.268. Criteria considered by committee.
23.271. Program reports, content — portions of report to be submitted to state auditor.
23.274. Exemption for certain agencies, when.
23.277. Monitoring of legislation during session.
23.280. Sunset act not to prohibit certain activities of the general assembly.
23.283. Sunset program to continue until when, procedures for terminated programs.
23.292. State agencies and officers to provide assistance to committee, when.
23.295. Division of workforce development to assist displaced employees.
23.298. Rights and duties not affected by sunsetting of programs.
33.210. Budget director to assist governor in preparation of budget — performance-based budgeting system to be developed.
33.270. Budget to legislature in printed form — contents.
33.800. Procedure to be established for performance-based review of state agencies.
33.803. Performance-based review procedure — selection of department or agency, how determined.
33.805. Department or agency selected for performance-based review, appropriation requests, procedure, duties of agency.
33.807. Access to all records and assistance to house and senate committees, exceptions.
33.810. Analysis team to be formed, members selection — expenses, how paid — duties of team — review to begin and end when.

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

SECTION A. ENACTING CLAUSE. — Sections 33.210, 33.270, 33.800, 33.803, 33.805, 33.807, and 33.810, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 23.250, 23.253, 23.256, 23.259, 23.262, 23.265, 23.268, 23.271, 23.274, 23.277, 23.280, 23.283, 23.292, 23.295, 23.298, 33.210, 33.270, 33.800, 33.803, 33.805, 33.807, and 33.810, to read as follows:

23.250. TITLE. — Sections 23.250 to 23.298 shall be known and may be cited as the "Missouri Sunset Act".

23.253. NEW PROGRAMS TO SUNSET, WHEN — DEFINITIONS — REAUTHORIZED PROGRAMS, EFFECT OF — REVIEW OF PROGRAMS, WHEN. — 1. As used in sections 23.250 to 23.298, the following terms mean:

(1) "Agency", any department, division, or agency of the state responsible for the administration of a program;

(2) "Committee", the committee on legislative research established in section 35, article III, Constitution of Missouri and section 23.010;

(3) "Program", a distinct and coherent set of activities authorized by the general assembly through the legislative process intended to affect a clearly definable target group, problem, or issue and which can be appropriated through the budget process or nonappropriated, as in the case of tax credits;

(4) "Sunset", the termination of legislative authorization of a program.

2. After August 28, 2003, any new program authorized by the general assembly shall sunset not more than six years after its effective date unless reauthorized by an act of the general assembly. No funds may be expended on a program after its authorization has terminated. Legislation passed after August 28, 2003, shall indicate whether it contains a program subject to the Missouri sunset act. Any such program shall have a sunset clause clearly indicating the date of termination without reauthorization.

3. Any program reauthorized by the general assembly pursuant to this section shall include a provision specifying that the program shall sunset at a date not more than twelve years from the effective date of the program's reauthorization.

4. Any program to which money was appropriated prior to August 28, 2003, may at any time be subject to review of the committee by a majority vote of its members for the purpose of recommending to the general assembly its continuation or sunset. The committee shall conduct public hearings concerning but not limited to the application to the program of the criteria provided in section 23.268, and shall issue a report pursuant to subsection one of section 23.271. The committee may recommend to the general assembly by a majority vote of its members that a program under review, to which money was appropriated prior to August 28, 2003, be sunset, continued, or reorganized. The committee shall submit such recommendation to all members of the general assembly within thirty calendar days of the vote in which such recommendation is made.

23.256. INFORMATION TO BE REPORTED BY AGENCIES TO JOINT COMMITTEE ON LEGISLATIVE RESEARCH, WHEN. — Before October thirtieth of the second calendar year prior to the year in which a state program subject to sections 23.250 to 23.298 is scheduled to sunset, the agency shall report to the committee:

(1) Information regarding the application to the program of the criteria in section 23.268; and

(2) Any other information that the agency considers appropriate or that is requested by the committee.

23.259. SUNSETTING OF PROGRAMS, DUTIES OF THE COMMITTEE. — 1. Before September first of the calendar year prior to the year in which a program subject to sections 23.250 to 23.298 is scheduled to sunset, the committee shall:

(1) Review and take action necessary to verify the reports submitted by the agency pursuant to section 23.256;

(2) Consult with the budget committee of the house of representatives, the appropriations committee of the senate, the office of budget and planning, the state auditor, and the state treasurer on the application to the agency of the criteria provided in section 23.268; and

(3) Conduct a performance evaluation of the program based on the criteria provided in section 23.268 and prepare a written report.

2. The written report prepared by the committee pursuant to subdivision (3) of subsection 1 of this section shall be deemed a public record.

23.262. PUBLIC HEARINGS CONDUCTED FOR SUNSETTING PROGRAMS, WHEN. — 1. Between September first and December first of the calendar year prior to the year in which a program subject to sections 23.250 to 23.298 is scheduled to sunset, the committee shall conduct public hearings concerning but not limited to the application to the program of the criteria provided in section 23.268.

2. The committee may hold the public hearings prior to September first if the evaluation of the program required in subdivision (3) of subsection 1 of section 23.268 is complete and available to the public.

23.265. REPORT TO GENERAL ASSEMBLY ON SUNSETTING PROGRAMS, CONTENT. — 1. At the beginning of each regular session of the general assembly, the committee shall present to the general assembly and the governor a report on the programs scheduled to be sunset.

2. In the report, the committee shall include:

(1) Its specific findings regarding each of the criteria prescribed by section 23.268;

(2) Its recommendations based on the matters prescribed by section 23.271; and

(3) Any other information the committee deems necessary for a complete evaluation of the program.

23.268. CRITERIA CONSIDERED BY COMMITTEE. — The committee and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a program, or for the performance of the functions of the program:

(1) The efficiency with which the program operates;

(2) An identification of the objectives intended for the program and the problem or need that the program was intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for such activities;

(3) An assessment of less restrictive or alternative methods of performing any rule or regulation that the agency performs that could adequately protect the public;

(4) The extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

(5) Whether the agency has recommended to the general assembly statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates;

(6) The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the program;

(7) The extent to which the agency has encouraged participation by the public in making rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the program;

(8) The extent to which the agency has complied with applicable requirements of:

(a) An agency of the United States or this state regarding equality of employment opportunity and the rights and privacy of individuals; and

(b) State law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses;

(9) The extent to which changes are necessary in the enabling statutes of the program so that the agency can adequately comply with the criteria established in this section;

(10) The extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(11) The extent to which the agency complies with chapter 610, RSMo, and follows records management practices that enable the agency to respond efficiently to requests for public information; and

(12) The effect of federal intervention or loss of federal funds if the program is sunset.

23.271. PROGRAM REPORTS, CONTENT — PORTIONS OF REPORT TO BE SUBMITTED TO STATE AUDITOR. — 1. In its report on a program, the committee shall:

(1) Make recommendations on the sunset, continuation, or reorganization of each affected program and on the need for the performance of the functions of the program;

(2) Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in programs under review;

(3) Recommend appropriation levels for each program for which sunset or reorganization is recommended pursuant to subdivision (1) or (2) of this subsection; and

(4) Include drafts of legislation necessary to carry out the committee's recommendations pursuant to subdivisions (1) and (2) of this subsection.

2. On the date the committee presents its report to the general assembly pursuant to section 23.265, the committee shall present to the state auditor the committee's recommendations that do not require a statutory change to be put into effect. The state auditor shall examine the recommendations and shall prepare, as part of the next scheduled audit of the program, a report on the manner in which the agency has implemented the recommendations.

23.274. EXEMPTION FOR CERTAIN AGENCIES, WHEN. — 1. In the two-year period preceding the date scheduled for the sunset of a program pursuant to sections 23.250 to 23.298, the committee may exempt certain agencies from the requirements of sections 23.250 to 23.298 relating to staff reports, hearings, and evaluations.

2. The committee shall only exempt programs that have been inactive for a period of two years preceding the date the program is scheduled to sunset.

3. The committee's action in exempting programs pursuant to this section shall be done by an affirmative record vote of all members of the committee.

23.277. MONITORING OF LEGISLATION DURING SESSION. — During each regular or special session of the general assembly, the staff of the committee shall monitor legislation affecting programs that have undergone sunset review and shall periodically report to the members of the committee on proposed changes which would modify prior recommendations of the committee.

23.280. SUNSET ACT NOT TO PROHIBIT CERTAIN ACTIVITIES OF THE GENERAL ASSEMBLY. — Sections 23.250 to 23.298 shall not prohibit the general assembly from:

(1) Terminating a program at a date earlier than that provided in sections 23.250 to 23.298; or

(2) Considering any other legislation relative to a program subject to sections 23.250 to 23.298.

23.283. SUNSET PROGRAM TO CONTINUE UNTIL WHEN, PROCEDURES FOR TERMINATED PROGRAMS. — 1. A program that is sunset may continue in existence until September first of the following year to conclude its business. Unless the law provides otherwise, sunset does not reduce or otherwise limit the powers and authority of the agency during the concluding year. A program is terminated and shall cease all activities at the expiration of the one-year period. Unless the law provides otherwise, all rules adopted by the state agency shall expire at the expiration of the one-year period.

2. Any unobligated and unexpended appropriations of a sunset program lapse on September first of the year after sunset.

3. Except as provided by subsection 5 of this section or as otherwise provided by law, all moneys in a dedicated fund of a program that sunsets on September first of the year after sunset shall be transferred to the credit of the general revenue fund. Any law or portion of a law dedicating the moneys to a specific fund of a program that sunsets shall become void on September first of the year after sunset.

4. Unless the governor designates an appropriate state agency as prescribed in subsection 5 of this section, property and records in the custody of an agency administering a sunset program on September first of the year after sunset shall be transferred to the office of administration. If the governor designates an appropriate state agency, the property and records shall be transferred to the designated state agency.

5. In recognition of the state's continuing obligation to pay bonded indebtedness and all other obligations, including lease, contract, and other written obligations, incurred by a program pursuant to sections 23.250 to 23.298, sections 23.250 to 23.298 shall not impair or impede payment of bonded indebtedness and all other obligations, including lease,

contract, and other written obligations, in accordance with their terms. If an agency has outstanding bonded indebtedness or other outstanding obligations for a sunset program, including lease, contract, or other written obligations, the bonds and all other such obligations remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other such obligations. The governor shall designate an appropriate state agency to continue to carry out all covenants contained in the bonds and all other such obligations, and the proceedings authorizing them, including the issuance of bonds, and the performance of all other such obligations to complete the construction of projects or the performance of other such obligations. The designated state agency shall provide payment from the sources of payment of the bonds in accordance with the terms of the bonds and shall provide payment from the sources of payment from all other such obligations in accordance with their terms, whether from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full and are performed and paid in full. If the proceedings so provide, all funds established by law or proceedings authorizing the bonds or authorizing other such obligations shall remain with the state treasurer or previously designated trustees. If the proceedings do not provide that the funds remain with the state treasurer or previously designated trustees, the funds shall be transferred to the designated state agency.

23.292. STATE AGENCIES AND OFFICERS TO PROVIDE ASSISTANCE TO COMMITTEE, WHEN. — 1. The committee may request the assistance of state agencies and officers to assist in gathering information pursuant to the committee objective.

2. In carrying out its functions pursuant to sections 23.250 to 23.298, the committee or its designated staff member may inspect the records, documents, and files of any state agency.

23.295. DIVISION OF WORKFORCE DEVELOPMENT TO ASSIST DISPLACED EMPLOYEES. — If an employee is displaced because a program is sunset, reorganized, or continued, the state agency and the division of workforce development in the department of economic development shall make a reasonable effort to relocate the displaced employee.

23.298. RIGHTS AND DUTIES NOT AFFECTED BY SUNSETTING OF PROGRAMS. — Except as otherwise expressly provided, sunset of a program does not affect the rights and duties that matured, penalties incurred or imposed, civil or criminal liabilities that arose, or proceedings initiated before the effective date of the sunset.

33.210. BUDGET DIRECTOR TO ASSIST GOVERNOR IN PREPARATION OF BUDGET — PERFORMANCE-BASED BUDGETING SYSTEM TO BE DEVELOPED. — 1. The director of the budget shall assist the governor in the preparation of the budget and in his other duties in relation thereto.

2. The budget director shall develop and implement a performance-based budgeting system that establishes goals and objectives, provides detailed measures of program and fund performance against attainment of planned outcomes, and provides for program evaluations. The governor may consider all outcome measures used for each program and fund as compared with the attainment of the established goals and objectives of each program or fund for the past three fiscal years in preparing budget recommendations pursuant to section 33.270. Such outcome measures and attainment of established goals and objectives for each program and fund shall be considered by the general assembly in approving appropriation levels for each program and fund.

33.270. BUDGET TO LEGISLATURE IN PRINTED FORM — CONTENTS. — The budget shall be submitted to the general assembly in printed form. Such budget shall be in two parts:

(1) A budget message outlining the fiscal policy of the state for the biennium and describing the important features of the budget plan; giving a summary of the budget setting forth aggregate figures of proposed revenues and expenditures and the balanced relations between the proposed revenues and expenditures and the total expected income and other means of financing the budget compared with the corresponding figures for the preceding biennium; including explanatory schedules classifying proposed expenditures by organization units, objects and funds; giving estimated statements of assets and liabilities as of the close of the preceding biennium and of the budget biennium; explaining any proposed major increases in revenue from any existing source or any new source of revenue proposed, and giving any further information or making any suggestions;

(2) The detailed budget estimates of revenues and expenditures for each fund as provided for in this act showing the recommendations of the governor on each, compared with the figures for each of the fiscal years of the preceding biennium, **including all outcome measures used for each program and fund as compared with the attainment of the established goals and objectives of each program and fund for the past three fiscal years and projected outcome measures for each program and fund for the current fiscal year and the next two fiscal years, the most recent reports done by the state auditor's office and any evaluations done by the oversight division of the committee on legislative research for each fund and program** and giving an explanation of each major change in the recommendations from the revenues and expenditures in the previous biennium.

33.800. PROCEDURE TO BE ESTABLISHED FOR PERFORMANCE-BASED REVIEW OF STATE AGENCIES. — The chairman of the house budget committee, the chairman of the senate appropriations committee and the commissioner of administration shall develop budget review procedures to provide for a **[**detailed base**]** **performance-based** review of state agency budgets. Such procedures shall be jointly adopted by the budget committee of the house, the appropriations committee of the senate and the office of administration.

33.803. PERFORMANCE-BASED REVIEW PROCEDURE — SELECTION OF DEPARTMENT OR AGENCY, HOW DETERMINED. — 1. **[**Detail base**]** **Performance-based** review procedures **[**may**]** **shall** be designed to:

(1) Operate on a defined rotating basis requiring the **[**detailed**]** **performance-based** review of specified departments or agencies in a particular fiscal year; or

(2) Provide for random review of specific departments or agencies on the basis of perceived needs and requirements of the state budget.

2. **[**Detail base**]** **Performance-based** review shall be required by the budget and appropriations committees and the selection of the department or agency or program shall be made **on a rotating basis,** with a majority concurrence of the chairman of the house budget committee, the chairman of the senate appropriations committee and the director of the division of budget and planning**[**. The review, whether on a defined rotating basis or on a random basis, may be applied to the**]****; provided that, every department, division, or agency shall be reviewed at least once every five years after January 1, 2005. The chair of the house budget committee, the chair of the senate appropriations committee, and the director of the division of budget and planning shall decide what the review will cover, which may include the**:

(1) Entire budget of the department or agency;

(2) Budget subclasses as detailed by the office of administration; or

(3) Selected programs**; and**

(4) Outcome measures used for programs and funds within the department, division, or agency.

3. Where similar programs or services are provided by more than one department or agency, the **[**detail base**]** **performance-based** review procedures may provide for a review and investigation of the program or service level on an interagency or interdepartmental basis in an effort to consolidate such programs or services.

33.805. DEPARTMENT OR AGENCY SELECTED FOR PERFORMANCE-BASED REVIEW, APPROPRIATION REQUESTS, PROCEDURE, DUTIES OF AGENCY. — 1. Any department or agency selected for a **[**detail base**]** **performance-based** review under procedures adopted pursuant to the provisions of sections 33.800 to 33.810 shall present its appropriation request in a manner prescribed by the budget and appropriation committees so that all programs or services can be reviewed, to the extent practicable, on the basis of a cost/benefit evaluation, and shall contain, to the extent requested, a detailed itemization of all existing and anticipated expenditures which are to be allocated to each program, service or function for the year of the appropriation request.

2. All departments and agencies shall submit their respective appropriations requests in a uniform manner as prescribed by procedures prescribed pursuant to section 33.800.

33.807. ACCESS TO ALL RECORDS AND ASSISTANCE TO HOUSE AND SENATE COMMITTEES, EXCEPTIONS. — All officers and employees of the state, all departments, boards, commissions, bureaus and other agencies and institutions of the state which are supported, in whole or in part, by appropriations from the state shall furnish the budget committee of the house of representatives and the appropriations committee of the senate with complete access to their records and full information and assistance in any matter of research or investigation in connection with a **[**detail base**]** **performance-based** review. This section shall not be construed to compel the disclosure of any records or information which is declared to be privileged or confidential under any law of this state or the United States or by an order of a court of competent jurisdiction.

33.810. ANALYSIS TEAM TO BE FORMED, MEMBERS SELECTION — EXPENSES, HOW PAID — DUTIES OF TEAM — REVIEW TO BEGIN AND END WHEN. — When any department or agency is selected for a **[**detail base**]** **performance-based** review pursuant to the provisions of sections 33.800 to 33.810, an analysis team shall be formed to consist of a budget analyst of the senate appropriations committee selected by the chairman of the senate appropriations committee, a budget analyst of the house budget committee selected by the chairman of the house budget committee, a budget analyst who is employed by the office of administration designated by the commissioner of administration, and an employee of the department or agency subject to the **[**detail base**]** **performance-based** review selected by the chief administrative officer of that department or agency. Upon request of the chairmen of the legislative committees, the oversight division of the joint committee on legislative research shall assist the analysis team and provide such services as may be required. Members of the team shall receive no additional compensation for their services, but may be reimbursed for their actual and necessary expenses connected with the performance of their duties out of the joint legislative contingent fund. The team shall perform such functions, analysis and other duties as are specified in the **[**detail base**]** **performance-based** review procedures established pursuant to the provisions of section 33.800. The team shall begin the **[**detail base**]** **performance-based** review no sooner than the final approval of the appropriations bills by the governor and complete the review no later than **[**October first**]** **December thirty-first** of the same year.

Approved June 26, 2003

SB 301 [HCS SB 301]

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

Increases maximum lateral sewer service repair fee to be imposed from $28 to $50 per year.

AN ACT to repeal section 249.422, RSMo, and to enact in lieu thereof one new section relating to fees imposed to repair lateral sewer service lines.

SECTION

A. Enacting clause.

249.422. Fee imposed to repair lateral sewer service lines for certain residential property and in certain counties — condominiums responsible for proportionate share — ballot form — special account established for fees collected.

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

SECTION A. ENACTING CLAUSE. — Section 249.422, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 249.422, to read as follows:

249.422. FEE IMPOSED TO REPAIR LATERAL SEWER SERVICE LINES FOR CERTAIN RESIDENTIAL PROPERTY AND IN CERTAIN COUNTIES — CONDOMINIUMS RESPONSIBLE FOR PROPORTIONATE SHARE — BALLOT FORM — SPECIAL ACCOUNT ESTABLISHED FOR FEES COLLECTED. — 1. If approved by a majority of the voters voting on the proposal, any city, town, village or county on behalf of the unincorporated area, located either within the boundaries of a sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution or within any county of the first classification having a charter form of government with a population of more than two hundred ten thousand inhabitants but less than three hundred thousand inhabitants, may by city, town, village or county ordinance levy and impose annually for the repair of lateral sewer service lines on residential property having six or less dwelling units a fee not to exceed **[**twenty-eight**]** **fifty** dollars per year.

2. The question shall be submitted in substantially the following form:

Shall a maximum charge of **[**seven**]** **fifty** dollars be assessed **[**quarterly**]** **annually** on all residential property having six or less dwelling units to provide funds to pay the cost of certain repairs of defective lateral sewer service lines of those dwelling units?

[ ] YES [ ] NO

3. If a majority of the voters voting thereon approve the proposal provided for in subsection 2 of this section, the governing body of the city, town, village or county may enact an ordinance for the collection and administration of such fee in order to protect the public health, welfare, peace and safety. The funds collected pursuant to such ordinance shall be deposited in a special account to be used solely for the purpose of paying for all or a portion of the costs reasonably associated with and necessary to administer and carry out the defective lateral sewer service line repairs. All interest generated on deposited funds shall be accrued to the special account established for the repair of lateral sewer service lines.

4. Any city, town, village, or county that establishes or increases the fee used to repair any portion of the lateral sewer service line shall include all defective portions of the lateral sewer service line from the residential structure to its connection with the public sewer system line.

Approved July 1, 2003

SB 307 [SCS SB 307]

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

Modifies the rebate amount for prescription drugs in the Missouri Senior Prescription Program.

AN ACT to repeal section 208.565, RSMo, and to enact in lieu thereof one new section relating to the senior Rx program, with an emergency clause.

SECTION
A. Enacting clause.
208.565. Rebates, amount, use of.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 208.565, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.565, to read as follows:

208.565. REBATES, AMOUNT, USE OF. — 1. The division shall negotiate with manufacturers for participation in the program. The division shall issue a certificate of participation to pharmaceutical manufacturers participating in the Missouri Senior Rx program. A pharmaceutical manufacturer may apply for participation in the program with an application form prescribed by the commission. A certificate of participation shall remain in effect for an initial period of not less than one year and shall be automatically renewed unless terminated by either the manufacturer or the state with sixty days' notification.

2. **For all transactions occurring prior to July 1, 2003, the rebate amount for each drug shall be fifteen percent of the average manufacturers' price as defined pursuant to 42 U.S.C. 1396r-8(k)(1). For all transactions occurring on or after July 1, 2003,** the rebate amount for **[**each drug**]** **name brand prescription drugs** shall be fifteen percent **and the rebate amount for generic prescription drugs shall be eleven percent** of the average manufacturers' price as defined pursuant to 42 U.S.C. 1396r-8(k)(1). No other discounts shall apply. In order to receive a certificate of participation a manufacturer or distributor participating in the Missouri Senior Rx program shall provide the division of aging the average manufacturers' price for their contracted products. The following shall apply to the providing of average manufacturers' price information to the division of aging:

(1) Any manufacturer or distributor with an agreement under this section that knowingly provides false information is subject to a civil penalty in an amount not to exceed one hundred thousand dollars for each provision of false information. Such penalties shall be in addition to other penalties as prescribed by law;

(2) Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers pursuant to this subsection or under an agreement with the division pursuant to this section is confidential and shall not be disclosed by the division or any other state agency or contractor therein in any form which discloses the identity of a specific manufacturer or wholesaler or prices charged for drugs by such manufacturer or wholesaler, except to permit the state auditor to review the information provided and the division of medical services for rebate administration.

3. All rebates received through the program shall be used toward refunding the program. If a pharmaceutical manufacturer refuses to participate in the rebate program, such refusal shall not affect the manufacturer's status under the current Medicaid program. There shall be no drug formulary, prior approval system, or any similar restriction imposed on the coverage of outpatient

drugs made by pharmaceutical manufacturers who have agreements to pay rebates for drugs utilized in the Missouri Senior Rx program, provided that such outpatient drugs were approved by the Food and Drug Administration.

4. Any prescription drug of a manufacturer that does not participate in the program shall not be reimbursable.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the fiscal stability of the Senior Rx program, 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 16, 2003

SB 314 [SB 314]

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

Repeals a doubly-enacted section regarding the towing of motor vehicles from private property.

AN ACT to repeal section 304.157 as enacted by senate bill no. 17, ninetieth general assembly, first regular session, relating to abandoned property.

SECTION

A. Enacting clause.

304.157. Vehicles left unattended or improperly parked on private property of another, procedure for removal and disposition — violation of certain required procedure, penalty.

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

SECTION A. ENACTING CLAUSE. — Section 304.157 as enacted by senate bill no. 17, ninetieth general assembly, first regular session, is repealed, to read as follows:

[304.157. VEHICLES LEFT UNATTENDED OR IMPROPERLY PARKED ON PRIVATE PROPERTY OF ANOTHER, PROCEDURE FOR REMOVAL AND DISPOSITION — VIOLATION OF CERTAIN REQUIRED PROCEDURE, PENALTY. — 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) The abandoned property is left unattended for more than forty-eight hours; or

(2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

2. The owner of real property or lessee or property or security manager in lawful possession of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is

present. A property or security manager must be a full-time employee of a business entity. An authorization to tow under this subsection may be made only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property improperly parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained; or a twenty-four-hour staffed emergency information telephone number, other than the number of a towing company, by which the owner of the abandoned property or improperly parked property may call to receive information regarding the location of such owner's property; or

(2) The abandoned property is on private property and lacks an engine, transmission, wheels, tires, doors, windshield or any other major part or equipment necessary to operate safely on the highways, the owner or lessee of the private property has notified the city police or county sheriff, as appropriate, and ninety-six hours have elapsed since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and ten days have elapsed since that notification.

3. Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall within one hour of the tow file an abandoned property report with the appropriate law enforcement agency where the property is located. The report shall contain the following:

(1) The year, model, make and abandoned property identification number of the property and the owner and any lienholders, if known;

(2) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;

(3) The license plate or registration number and the state of issuance, if available;

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The signature and printed name, address and phone number of the owner, lessee or property or security manager in possession of the real property;

(7) The towing company's name and address;

(8) The signature of the towing operator;

(9) The name of the law enforcement agency notified of the abandoned property.

The department of revenue may design and make available to police agencies throughout the state a uniform "Authorization to Tow" form. The form shall contain lines for time, date, location, descriptive information of the vehicle, reason for towing, the tow operator and company and signature of authorizing officer. The cost of the forms shall be determined by the department of revenue. The completed form shall be issued by the authorizing officer to the tow operator for that company's records as proof of authorization to tow a particular vehicle.

4. The law enforcement agency receiving such abandoned property report must record the date the abandoned property report is filed with such agency and within five days of such filing make an inquiry into the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide enforcement computer system. The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.

5. Neither the law enforcement officer nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subdivision (1) of subsection 2 of this section shall within one hour of the tow report the event and the circumstances to the local law enforcement agency where the abandoned property report was filed.

7. The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall record the date the property was towed and shall forward a copy of the abandoned property report to the director of revenue.

8. If any owner or lessee of real property authorizes the removal of abandoned property pursuant to subsection 2 of this section and such property is so removed and no sign is displayed prior to such removal as required pursuant to subsection 2 of this section, then the owner or lessee shall be deemed guilty of a class C misdemeanor.**]**

Approved June 26, 2003

SB 317 [SB 317]

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

Establishes a December 15, 2003, deadline for a MCHCP study which is presently required by law but possesses no deadline.

AN ACT to repeal section 103.175, RSMo, and to enact in lieu thereof one new section relating to the imposition of a deadline for a study by the board of trustees of Missouri consolidated health care plan.

SECTION

A. Enacting clause.
103.175. Feasibility of agencies and school district retirees not having joined plan to join — board to study and report.

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

SECTION A. ENACTING CLAUSE. — Section 103.175, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 103.175, to read as follows:

103.175. FEASIBILITY OF AGENCIES AND SCHOOL DISTRICT RETIREES NOT HAVING JOINED PLAN TO JOIN — BOARD TO STUDY AND REPORT. — The board shall study and report to the general assembly**, on or before December 15, 2003,** on the feasibility of including in this plan individuals who are employees of eligible agencies which have not elected to join the plan or who are retirees of school districts.

Approved July 9, 2003

SB 321 [SB 321]

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

Requires persons discharged from prison or parole, to be informed of the procedures to register to vote.

AN ACT to repeal section 217.730, RSMo, and to enact in lieu thereof one new section relating to voter registration information given upon discharge of an offender.

SECTION
A. Enacting clause.
217.730. Parole time as time of imprisonment, exception — final discharge — procedure to register to vote.

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

SECTION A. ENACTING CLAUSE. — Section 217.730, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.730, to read as follows:

217.730. PAROLE TIME AS TIME OF IMPRISONMENT, EXCEPTION — FINAL DISCHARGE — PROCEDURE TO REGISTER TO VOTE. — 1. The period served on parole, except for judicial parole granted or revoked pursuant to section 559.100, RSMo, shall be deemed service of the term of imprisonment and, subject to the provisions of section 217.720 relating to an offender who is or has been a fugitive from justice, the total time served may not exceed the maximum term or sentence.

2. When an offender on parole or conditional release, before the expiration of the term for which the offender was sentenced, has performed the obligation of his parole for such time as satisfies the board that his final release is not incompatible with the best interest of society and the welfare of the individual, the board may make a final order of discharge and issue a certificate of discharge to the offender. No such order of discharge shall be made in any case less than three years after the date on which the offender was paroled or conditionally released except where the sentence expires earlier.

3. Upon final discharge, persons shall be informed in writing on the process and procedure to register to vote.

Approved May 30, 2003

SB 325 [HCS SB 325]

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

Alters provisions regarding veterans & mandates that public schools devote one class period observing Veterans Day.

AN ACT to repeal sections 59.480, 59.490, and 160.360, RSMo, and to enact in lieu thereof three new sections relating to military affairs.

SECTION

A. Enacting clause.
59.480. Recording of discharges from armed forces — definitions — duties of recorders — disclosure of records, when.
160.360. Operation recognition, honorary high school diplomas awarded to certain veterans and civilian POWs, when.
170.049. Veterans Day observance in schools.
59.490. List of veterans — copies of discharge (third and fourth class counties).

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

SECTION A. ENACTING CLAUSE. — Sections 59.480, 59.490, and 160.360, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 59.480, 160.360, and 170.049, to read as follows:

59.480. RECORDING OF DISCHARGES FROM ARMED FORCES — DEFINITIONS — DUTIES OF RECORDERS — DISCLOSURE OF RECORDS, WHEN. — **[**Any person who is the holder of a discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record from the armed forces of the United States may demand that such document be recorded by the recorder of deeds of any county in this state, including the recorder of deeds of the city of St. Louis, and it shall be the duty of the recorder of deeds to record the document without any fee or compensation therefor.**] 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:**

(1) "Authorized party", any of the following:

(a) The person who is the subject of the document;

(b) The representative of a person who is the subject of the document or the agent of a person who is the subject of the document, including but not limited to, relatives, attorneys, attorneys in fact, conservators, guardians, and funeral directors; and who has authorization in writing from the person who is the subject of the document, the spouse of the person who is the subject of the document, a relative who is the next of kin of the person who is the subject of the document, a court, in order to represent the person who is the subject of the document or the executor of the person who was the subject of the document who is acting on behalf of the deceased subject of the document;

(c) Government agencies, including courts, that have an interest in assisting the subject of the document or in assisting the beneficiaries of the deceased subject of the document in obtaining a benefit;

(2) "Military discharge document", a discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record from the armed forces of the United States, or any document that purports to represent a notice of separation from or service in any armed forces of the United States or any state, including but not limited to the department of defense form DD 214;

(3) "Recorder of deeds", the recorder of deeds in those counties where separate and the circuit clerk and ex officio recorder of deeds in those counties where the offices are combined.

2. Military discharge documents shall be accepted for filing by the recorder of deeds in all counties and the city of St. Louis in this state without any fee or compensation therefore.

3. The recorder of deeds may refuse to accept any military discharge document that:

(1) Is not an original or does not contain an original signature of an officer of the armed forces of the United States or a federal or state agency;

(2) Is not a certified copy from an agency of the federal or state government; or

(3) Appears to have alterations or erasures.

4. On or after the effective date of this section, the recorder of deeds shall:

(1) Maintain and make available to the public in its office an index containing only the name of the subject of a military discharge document;

(2) Maintain a separate index from publicly available information that contains only:

(a) The name of the subject of a military discharge document; and

(b) The location of the image of the military discharge document;

(3) Maintain the images of all military discharge documents separately from all other publicly available filed or recorded document images.

5. As part of any remote access system, the recorder of deeds shall not make available the location of the image or the image of the military discharge document.

6. Images of a military discharge document or copies thereof shall only be made available to an authorized party by submitting a notarized request form to the recorder of deeds. The recorder of deeds shall not receive a fee or compensation for a certified or uncertified copy of the military discharge document and shall not charge a notary fee for notarizing such request form.

7. Prior to the effective date of this section, the Recorders Association of Missouri shall adopt a request form and any rules necessary to implement the provisions of this section. The recorder of deeds in all counties and the city of St. Louis shall use and furnish the forms adopted by the Recorders Association of Missouri and comply with the rules adopted by the Recorders Association of Missouri.

8. A request form that contains more than one military discharge document shall not be accepted by the recorder of deeds.

9. The recorder of deeds shall keep all completed request forms for a period of at least five years and such forms shall be made available only to an authorized party in accordance with the provisions of this section.

10. In the event that military discharge documents, prior to the effective date of this section, have been commingled, and to the extent possible, a recorder of deeds may choose to enact the provisions of this section regarding the indexes and images.

11. On or after the effective date of this section, military discharge documents kept pursuant to this section shall not be reproduced or used in whole or in part for any commercial or speculative purposes.

12. Any individual, agency, or court which obtains information pursuant to this section shall not disseminate or disclose such information or any part thereof except as authorized in this section or otherwise by law.

13. The recorder of deeds shall not be liable for any damages that may result from good faith compliance with the provisions of this section.

160.360. OPERATION RECOGNITION, HONORARY HIGH SCHOOL DIPLOMAS AWARDED TO CERTAIN VETERANS AND CIVILIAN POWS, WHEN. — 1. The department of elementary and secondary education, with the cooperation of the Missouri veterans' commission, shall develop and administer a program to be known as "Operation Recognition". The purpose of the program is to award honorary high school diplomas to civilian prisoners of war (POWs) and to **[**World War I, World War II and Korean War veterans**]** **any veteran** who left high school prior to graduation to enter United States military service. The department and commission shall jointly develop an application procedure, distribute applications and publicize the program to school districts, accredited nonpublic schools, veterans' organizations, and state, regional and local media.

2. All civilian POWs who are residents or former residents of the state of Missouri and all honorably discharged **[**World War I, World War II and Korean War**]** veterans who are residents or former residents of the state of Missouri, who served in the United States military **[**during World War I, World War II or the Korean War,**]** and who did not return to school and complete their education after **[**the war**]** **their term of service** shall be eligible to receive **[**a**]** **an honorary** diploma. Diplomas may be issued posthumously.

3. Upon approval of an application, the department shall issue an honorary high school diploma for an eligible civilian POW or an eligible veteran. The diploma shall also include a statement specifying that the diploma is awarded in recognition of military service experiences and civic duty responsibilities. The diploma shall indicate the civilian POW's or veteran's school of attendance. The department and commission shall work together to provide school districts, schools, communities and veterans' organizations with information about hosting a diploma ceremony on or around Veterans Day. The diploma shall be mailed to the civilian POW or veteran or, if the civilian POW or veteran is deceased, to the civilian POW's or veteran's family.

170.049. VETERANS DAY OBSERVANCE IN SCHOOLS. — The board of each school district shall require each school in such district to devote a period of time equal to one class period to an observance that conveys the meaning and significance of Veterans Day. Such observance shall take place on or as close as possible to Veterans Day. The board, in consultation with the administrators of each school in the district, shall determine the activities which will constitute the required observance.

[59.490. LIST OF VETERANS — COPIES OF DISCHARGE (THIRD AND FOURTH CLASS COUNTIES). — The recorder in counties of the third class and the circuit clerk and recorder in counties of the third and fourth classes wherein the offices have been combined, as the recorder of the county, shall prepare and keep a separate alphabetical list of the names of all residents of the county who have been discharged or transferred or otherwise separated from the armed forces of the United States. The list shall show the veteran's name, post-office address, and the branch of service from which he was discharged, transferred or otherwise separated, the date of his discharge, transfer or other separation and the date of the recording of same, together with the book and page wherein the discharge, separation notice, certificate of service, report of transfer or discharge, or other notice or document which is evidence of severance or transfer from military service and which contains a service record is recorded. The list shall be maintained by the recorder for public inspection and shall be up to date at all times; and in addition thereto, the recorders shall furnish to all persons who have reported their discharge or transfer or other separation from the armed forces of the United States one certified copy of the discharge, separation notice, certificate of service, report of transfer or discharge, or other notice or document which is evidence of severance or transfer from military service and which contains a service record upon request of the veteran, or if the veteran has deceased since the recording thereof, then by his heir, executor or administrator. A veteran is deemed a resident of the county for the purposes of this section if he resided in the county prior to his induction into the armed forces, and returned there upon his discharge, transfer or other separation, or if he has resided in the county for more than ninety days next prior to the recording of the discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record with the intention of making the county his domicile.**]**

Approved June 24, 2003

SB 327 [SB 327]

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

Modifies provisions of real estate appraiser licensing.

AN ACT to repeal sections 339.517 and 339.537, RSMo, and to enact in lieu thereof two new sections relating to the real estate appraisers commission.

SECTION
A. Enacting clause.
339.517. Examination required, when — rules authorized, invalid, when.
339.537. Records to be retained, retention period — availability of records for appraisers, when, cost.

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

SECTION A. ENACTING CLAUSE. — Sections 339.517 and 339.537, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 339.517 and 339.537, to read as follows:

339.517. EXAMINATION REQUIRED, WHEN — RULES AUTHORIZED, INVALID, WHEN. — 1. Any person who files with the commission an application for state licensure or certification as a real estate appraiser shall be required to pass an examination to demonstrate his or her competence. The commission shall, also, make such investigation as is required to verify such qualifications. If the results of the investigation are satisfactory to the commission and the applicant is otherwise qualified, then the commission shall issue to the applicant a license or certificate authorizing the applicant to act as a state-licensed real estate appraiser or a state-certified real estate appraiser in Missouri. If the results of the investigation are unsatisfactory, action on the application may be deferred pending a hearing before the real estate appraisal commission.

2. The commission shall promulgate and adopt regulations which prescribe and define the subjects related to real estate appraisal and the experience in real estate appraisal that will satisfy the qualification requirements for licensure or certification. The commission may approve courses of instruction in an accredited college or university relating to the appraisal of real estate and related disciplines including, but not limited to, economics, finance, statistics, principles of capitalization, real estate and such other areas deemed relevant by the commission. The commission may also approve similar courses of instruction offered by recognized professional appraisal organizations and real estate organizations and agencies of the state and federal government, and other qualified providers which may be approved by the commission. **The commission may require by rule that some or all of an applicant's qualifying experience in real estate appraising be obtained on appraisals of real estate located in this state.**

3. Each applicant for certification or licensure shall furnish under oath a detailed statement of the real estate appraisal assignments or file memoranda for each year in which real estate appraisal experience is claimed by the applicant. Upon request, the applicant shall furnish to the commission a sample of appraisal reports or file memoranda which the applicant has prepared in the course of his or her appraisal practice.

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, 2003, shall be invalid and void.

339.537. RECORDS TO BE RETAINED, RETENTION PERIOD — AVAILABILITY OF RECORDS FOR APPRAISERS, WHEN, COST. — State certified real estate appraisers and state licensed real estate appraisers shall retain originals or true copies of contracts engaging an appraiser's services for appraisal assignments, specialized appraisal services, appraisal reports,

and supporting data assembled and formulated in preparing appraisal reports, for five years. The period for retention of the records applicable to each engagement of the services of the state certified real estate appraiser or state licensed real estate appraiser shall run from the date of the submission of the appraisal report to the client. **Upon requests by the commission,** these records shall be made available by the state certified real estate appraiser or state licensed real estate appraiser for inspection and copying **at his or her expense,** by the commission on reasonable notice to the state certified real estate appraiser or state licensed real estate appraiser. When litigation is contemplated at any time, reports and records shall be retained for **[**three**] two** years after the **[**trial date**] final disposition**.

Approved June 19, 2003

SB 330 [SB 330]

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

Allows child support orders to be sent to employers by regular or certified mail.

AN ACT to repeal sections 454.505 and 454.606, RSMo, and to enact in lieu thereof two new sections relating to child support enforcement.

SECTION

A. Enacting clause.

454.505. Garnishment of wages, when, procedure, limitations — notice to employer, contents — employer, duties, liabilities — priorities — discharge of employee prohibited, when, penalties for — orders issued by another state, laws to govern.

454.606. Notice to employer or union, National Medical Support Notice to be used — notice, how delivered — division duties.

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

SECTION A. ENACTING CLAUSE. — Sections 454.505 and 454.606, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 454.505 and 454.606, to read as follows:

454.505. GARNISHMENT OF WAGES, WHEN, PROCEDURE, LIMITATIONS — NOTICE TO EMPLOYER, CONTENTS — EMPLOYER, DUTIES, LIABILITIES — PRIORITIES — DISCHARGE OF EMPLOYEE PROHIBITED, WHEN, PENALTIES FOR — ORDERS ISSUED BY ANOTHER STATE, LAWS TO GOVERN. — 1. In addition to any other remedy provided by law for the enforcement of support, if a support order has been entered, the director shall issue an order directing any employer or other payor of the parent to withhold and pay over to the division, the payment center pursuant to section 454.530 or the clerk of the circuit court in the county in which a trusteeship is or will be established, money due or to become due the obligated parent in an amount not to exceed federal wage garnishment limitations. For administrative child support orders issued pursuant to sections other than section 454.476, the director shall not issue an order to withhold and pay over in any case in which:

(1) One of the parties demonstrates, and the director finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that there is good cause not to require immediate withholding shall be based on, at least, a written determination and an explanation by the director that implementing immediate wage withholding

would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative payment arrangement.

If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section, without further exception, on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation.

2. An order entered pursuant to this section shall recite the amount required to be paid as continuing support, the amount to be paid monthly for arrearages and the Social Security number of the obligor if available. In addition, the order shall contain a provision that the obligor shall notify the division of child support enforcement regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in access to such insurance coverage. A copy of section 454.460 and this section shall be appended to the order. A copy of such order shall be filed with the circuit court in the county or city not within a county in which the judgment of dissolution or paternity was entered, or if no such judgment was entered, in the county or city not within a county where either parent or the child resides or where the order or judgment is filed or registered.

3. An order entered pursuant to this section shall be served on the employer or other payor **either by regular mail or** by certified mail, return receipt requested or may be issued through electronic means, and shall be binding on the employer or other payor two weeks after mailing or electronic issuance of such service. A copy of the order and a notice of property exempt from withholding shall be mailed to the obligor at the obligor's last known address. The notice shall advise the obligor that the withholding has commenced and the procedures to contest such withholding pursuant to section 454.475 on the grounds that such withholding or the amount withheld is improper due to a mistake of fact by requesting a hearing thirty days from mailing the notice. At such a hearing the certified copy of the court order and the sworn or certified statement of arrearages shall constitute prima facie evidence that the director's order is valid and enforceable. If a prima facie case is established, the obligor may only assert mistake of fact as a defense. For purposes of this section, "mistake of fact" means an error in the amount of the withholding or an error as to the identity of the obligor. The obligor shall have the burden of proof on such issues. The obligor may not obtain relief from the withholding by paying the overdue support. The employer or other payor shall withhold from the earnings or other income of each obligor the amount specified in the order, and may deduct an additional sum not to exceed six dollars per month as reimbursement for costs, except that the total amount withheld shall not exceed the limitations contained in the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b). The employer or other payor shall transmit the payments as directed in the order within seven business days of the date the earnings, money due or other income was payable to the obligor. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payor shall, along with the amounts transmitted, provide the date the amount was withheld from each obligor. If the order does not contain the Social Security number of the obligor, the employer or other payor shall not be liable for withholding from the incorrect obligor.

4. If the order is served on a payor other than an employer, it shall be a lien against any money due or to become due the obligated parent which is in the possession of the payor on the date of service or which may come into the possession of the payor after service until further order of the director, except for any deposits held in two or more names in a financial institution.

5. The division shall notify an employer or other payor upon whom such an order has been directed whenever all arrearages have been paid in full, and whenever, for any other reason, the amount required to be withheld and paid over to the payment center pursuant to the order as to

future pay periods is to be reduced or redirected. If the parent's support obligation is required to be paid monthly and the parent's pay periods are at more frequent intervals, the employer or other payor may, at the request of the obligee or the director, withhold and pay over to the payment center, an equal amount at each pay period cumulatively sufficient to comply with the withholding order.

6. An order issued pursuant to subsection 1 of this section shall be a continuing order and shall remain in effect and be binding upon any employer or other payor upon whom it is directed until a further order of the director. Such orders shall terminate when all children for whom the support order applies are emancipated or deceased, or the support obligation otherwise ends, and all arrearages are paid. No order to withhold shall be terminated solely because the obligor has fully paid arrearages.

7. An order issued pursuant to subsection 1 of this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other legal process is an order issued pursuant to this section or section 452.350, RSMo, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and includes a wage withholding from another state pursuant to section 454.932, the employer shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and does not include a wage withholding from another state pursuant to section 454.932, the employer shall withhold and pay to the payment center an amount equal to the wage withholding limitations. The payment center shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

8. No employer or other payor who complies with an order entered pursuant to this section shall be liable to the parent, or to any other person claiming rights derived from the parent, for wrongful withholding. An employer or other payor who fails or refuses to withhold or pay the amounts as ordered pursuant to this section shall be liable to the party holding the support rights in an amount equal to the amount which became due the parent during the relevant period and which, pursuant to the order, should have been withheld and paid over. The director is hereby authorized to bring an action in circuit court to determine the liability of an employer or other payor for failure to withhold or pay the amounts as ordered. If a court finds that a violation has occurred, the court may fine the employer in an amount not to exceed five hundred dollars. The court may also enter a judgment against the employer for the amounts to be withheld or paid, court costs and reasonable attorney's fees.

9. The remedy provided by this section shall be available where the state or any of its political subdivisions is the employer or other payor of the obligated parent in the same manner and to the same extent as where the employer or other payor is a private party.

10. An employer shall not discharge, or refuse to hire or otherwise discipline an employee as a result of an order to withhold and pay over certain money authorized by this section. If any such employee is discharged within thirty days of the date upon which an order to withhold and pay over certain money is to take effect, there shall arise a rebuttable presumption that such discharge was a result of such order. This presumption shall be overcome only by clear, cogent and convincing evidence produced by the employer that the employee was not terminated

because of the order to withhold and pay over certain money. The director is hereby authorized to bring an action in circuit court to determine whether the discharge constitutes a violation of this subsection. If the court finds that a violation has occurred, the court may enter an order against the employer requiring reinstatement of the employee and may fine the employer in an amount not to exceed one hundred fifty dollars. Further, the court may enter judgment against the employer for the back wages, costs, attorney's fees, and for the amount of child support which should have been withheld and paid over during the period of time the employee was wrongfully discharged.

11. If an obligor for whom an order to withhold has been issued pursuant to subsection 1 of this section terminates the obligor's employment, the employer shall, within ten days of the termination, notify the division of the termination, shall provide to the division the last known address of the obligor, if known to the employer, and shall provide to the division the name and address of the obligor's new employer, if known. When the division determines the identity of the obligor's new employer, the director shall issue an order to the new employer as provided in subsection 1 of this section.

12. If an employer or other payor is withholding amounts for more than one order issued pursuant to subsection 1 of this section, the employer or other payor may transmit all such withholdings which are to be remitted to the same circuit clerk, other collection unit or to the payment center after October 1, 1999, as one payment together with a separate list identifying obligors for whom a withholding has been made and the amount withheld from each obligor so listed, and the withholding date or dates for each obligor.

13. For purposes of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program, and interest.

14. The employer shall withhold funds as directed in the notice, except if an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(1) The employer's fee for processing an income withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income;

(3) The time periods within which the employer shall implement the income withholding order and forward the child support payments;

(4) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(5) Any withholding terms and conditions not specified in the order.

15. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the director shall use such notice prescribed by the secretary.

454.606. NOTICE TO EMPLOYER OR UNION, NATIONAL MEDICAL SUPPORT NOTICE TO BE USED — NOTICE, HOW DELIVERED — 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 **either by regular mail or** by certified mail, return receipt requested.

3. 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.

Approved June 27, 2003

SB 346 [HCS SS SCS SB 346]

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

Revises banking laws.

AN ACT to repeal sections 30.270, 59.163, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 364.030, 364.105, 365.030, 367.140, 367.509, 369.159, 400.9-525, 407.433, 408.140, 408.233, 408.450, 408.455, 408.460, 408.465, 408.467, 408.470, 408.500, 408.653, 408.654, and 447.510, RSMo, and to enact in lieu thereof thirty-two new sections relating to banking, with penalty provisions.

SECTION

A. Enacting clause.
30.270. Security for safekeeping of state funds.
59.163. Instruments where recorded or filed in counties of first class having two recording offices.
59.321. One dollar filing fee required, used for county employees' retirement system or general revenue account.
173.387. Authority not to be originator of guaranteed student loan, exceptions.
173.390. Bond issues — types authorized — rates — option to call for redemption before maturity, requirements — sale — price — cost.
306.410. Duties of parties upon creation of lien or encumbrance — failure of owner to perform certain duties, penalty.
361.130. Reports to director — information accepted in lieu of reports.
361.140. Preparation of information for report of department of economic development.

361.160. Examination of banks and trust companies.
361.170. Expenses of examination, how paid — division of finance fund, created, uses, transfers to general revenue fund, when.
362.010. Definitions.
362.105. Powers and authority of banks and trust companies.
362.106. Additional powers.
362.111. Fees and service charges permitted, when, conditions.
362.170. Unimpaired capital, defined — restrictions on loans, and total liability to any one person.
362.295. Reports to director — publication — penalty.
362.910. Definitions.
362.923. Bank holding companies, examination of, when — considered new business entity, when.
364.030. Financial institutions to obtain license, exceptions — application — fee.
364.105. Registration required — fee — forms.
365.030. Sales finance company, license required — exceptions — application — fee.
367.140. Annual registration — fee, amount — certificates, issuance, display.
367.509. Qualifications of applicants, fee, license issued, when.
369.159. Fee or service charge authorized.
370.171. Fee or service charge authorized.
400.9-525. Fees.
407.433. Protection of credit card and debit card account numbers, prohibited actions, penalty, exceptions — effective date, applicability.
408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
408.233. Additional charges authorized.
408.455. Variable rate agreements subject to certain provisions.
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.
447.510. Unclaimed funds held and owing by insurance company presumed abandoned, when — unclaimed funds defined — distribution of abandoned property, when.
408.450. Variable rate agreement by parties, requirement, limitation — account fluctuation, when — not applicable to credit cards — interest, how computed — prepayment penalties, prohibited.
408.460. Open-end contract, with variable rate — disclosures required to be given obligor — right of termination, rejection of new rate by obligor, effect.
408.465. Ceiling computation — information to compute unavailable, duty of lender, effect.
408.467. Renewal or extension of contract, maximum rate.
408.470. Certain loans and time price sales law not applicable.
408.653. Fee limitations, overdrafts.
408.654. Overdraft charge, amount.

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

SECTION A. ENACTING CLAUSE. — Sections 30.270, 59.163, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 364.030, 364.105, 365.030, 367.140, 367.509, 369.159, 400.9-525, 407.433, 408.140, 408.233, 408.450, 408.455, 408.460, 408.465, 408.467, 408.470, 408.500, 408.653, 408.654, and 447.510, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 30.270, 59.163, 59.321, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.111, 362.170, 362.295, 362.910, 362.923, 364.030, 364.105, 365.030, 367.140, 367.509, 369.159, 370.171, 400.9-525, 407.433, 408.140, 408.233, 408.455, 408.500, and 447.510, to read as follows:

30.270. SECURITY FOR SAFEKEEPING OF STATE FUNDS. — 1. For the security of the moneys deposited by the state treasurer pursuant to the provisions of this chapter, the state treasurer shall, from time to time, submit a list of acceptable securities to be approved by the governor and state auditor if satisfactory to them, and the state treasurer shall require of the selected and approved banks or financial institutions as security for the safekeeping and payment of deposits, securities from the list provided for in this section, which list may include only securities of the following kind and character:

(1) Bonds or other obligations of the United States;

(2) Bonds or other obligations of the state of Missouri including revenue bonds issued by state agencies or by state authorities created by legislative enactment;

(3) Bonds of any city in this state having a population of not less than two thousand;

(4) Bonds of any county in this state;

(5) Approved registered bonds of any school district situated in this state;

(6) Approved registered bonds of any special road district in this state;

(7) State bonds of any state;

(8) Notes, bonds, debentures or other similar obligations issued by the federal land banks, federal intermediate credit banks, or banks for cooperatives or any other obligations issued pursuant to the provisions of an act of the Congress of the United States known as the Farm Credit Act of 1971, and acts amendatory thereto;

(9) Bonds of the federal home loan banks;

(10) Any bonds or other obligations guaranteed as to payment of principal and interest by the government of the United States or any agency or instrumentality thereof;

(11) Bonds of any political subdivision established pursuant to the provisions of section 30, article VI, of the Constitution of Missouri;

(12) Tax anticipation notes issued by any county of the first classification;

(13) A surety bond issued by an insurance company licensed pursuant to the laws of the state of Missouri whose claims-paying ability is rated in the highest category by at least one nationally recognized statistical rating agency. The face amount of such surety bond shall be at least equal to the portion of the deposit to be secured by the surety bond;

(14) An irrevocable standby letter of credit issued by a Federal Home Loan Bank possessing the highest rating issued by at least one nationally recognized statistical rating agency**;**

(15) Out-of-state municipal bonds, provided such bonds are rated in the highest category by at least one nationally recognized statistical rating agency.

2. Securities deposited shall be in an amount valued at market equal at least to one hundred percent of the aggregate amount on time deposit as well as on demand deposit with the particular financial institution less the amount, if any, which is insured either by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation or by the National Credit Unions Share Insurance Fund.

3. The securities or book entry receipts shall be delivered to the state treasurer and receipted for by the state treasurer and retained by the treasurer or by financial institutions that the governor, state auditor and treasurer agree upon. The state treasurer shall from time to time inspect the securities and book entry receipts and see that they are actually held by the state treasury or by the financial institutions selected as the state depositaries. The governor and the state auditor may inspect or request an accounting of the securities or book entry receipts, and if in any case, or at any time, the securities are not satisfactory security for deposits made as provided by law, they may require additional security to be given that is satisfactory to them.

4. Any securities deposited pursuant to this section may from time to time be withdrawn and other securities described in the list provided for in subsection 1 of this section may be substituted in lieu of the withdrawn securities with the consent of the treasurer; but a sufficient amount of securities to secure the deposits shall always be held by the treasury or in the selected depositaries.

5. If a financial institution of deposit fails to pay a deposit, or any part thereof, pursuant to the terms of its contract with the state treasurer, the state treasurer shall forthwith convert the securities into money and disburse the same according to law.

6. Any financial institution making deposits of bonds with the state treasurer pursuant to the provisions of this chapter may cause the bonds to be endorsed or stamped as it deems proper, so as to show that they are deposited as collateral and are not transferable except upon the conditions of this chapter or upon the release by the state treasurer.

59.163. INSTRUMENTS WHERE RECORDED OR FILED IN COUNTIES OF FIRST CLASS HAVING TWO RECORDING OFFICES. — In any county of the first class in which the recorder of deeds is required by law to keep offices both at the county seat and at another place within the county, all deeds, deeds of trust, mortgages, and other instruments affecting real property situated in that range in the county where the office outside of the county seat is located shall be recorded in such office and not at the county seat; and the proper place to file, or to file for record if goods are or are to become fixtures, **[**all financing statements or other instruments or statements incidental thereto, such as continuation statements, termination statements, statements of assignment, statements of release, in order to perfect, continue, terminate, assign, release or affect a security interest in accordance with article 9, part 4, chapter 400, the Uniform Commercial Code,**]** is as follows:

(1) **[**When the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods (as such types of collateral are defined in the Uniform Commercial Code) and the debtor's residence is in that range where the office outside the county seat is located, then in such office outside the county seat, or if the debtor is not a resident of this state and the goods are kept in that range where the office outside the county seat is located, then in such office outside the county seat, and in addition, when the collateral is crops, and the land on which the crops are growing or are to be grown is located in that range where the office outside the county seat is located, then in such office outside the county seat;

(2)**]** When the collateral is goods which at the time the security interest attaches are or are to become fixtures, and the land to which the fixtures are or are to be attached is located in that range where the office outside the county seat is located, then in such office outside the county seat, and any such filing shall be for record;

[(3) When the collateral is any other kind of property, in the office of the secretary of state and in addition: (a) If the debtor has a place of business only in such county of this state and only in that range where the office outside the county seat is located, also in such office outside the county seat, or (b) If the debtor has places of business only in such county of this state but has a place of business both in that range where the office outside the county seat is located, and also elsewhere in such county, then also in such office outside the county seat and also in such office at the county seat, or (c) If the debtor has no place of business in this state, but resides in that range where the office outside the county seat is located, then also in such office outside the county seat;

(4)**]** **(2)** In all other cases where the proper place, or one of the proper places, to file or to file for record is in the office of the recorder of deeds of such county, then only in such office at the county seat and not in such office outside the county seat**;**

(3) All financing statements or other instruments or statements incidental thereto, such as continuation statements, termination statements, statements of assignment, in order to perfect, continue, terminate, assign, release, or affect a security interest in accordance with article 9, chapter 400, the Uniform Commercial Code, shall have priority over liens filed under this section for the time period after June 30, 2001, and before August 28, 2003.

59.321. ONE DOLLAR FILING FEE REQUIRED, USED FOR COUNTY EMPLOYEES' RETIREMENT SYSTEM OR GENERAL REVENUE ACCOUNT. — In addition to any other fee, the recorder of deeds in all counties and any city not within a county shall collect one dollar on all documents or instruments that are recorded. The recorder of deeds in all counties, except in counties with a charter form of government and any city not within a county, shall forward the fee to the county employees' retirement system pursuant to section 50.1190, RSMo, provided, however, that the recorder of deeds in any county with a charter form of government and any city not within a county whose employees are not members of the county employees' retirement system shall deposit the fee to the general

revenue of that county or city not within a county. The provisions of this section shall become effective September 1, 2003.

173.387. AUTHORITY NOT TO BE ORIGINATOR OF GUARANTEED STUDENT LOAN, EXCEPTIONS. — The authority shall not, under any circumstances, be the originator of any federally guaranteed student loan, except for consolidation of existing student loans**, parent loans for undergraduate students (PLUS),** and upon designation by the commissioner as lender of last resort.

173.390. BOND ISSUES — TYPES AUTHORIZED — RATES — OPTION TO CALL FOR REDEMPTION BEFORE MATURITY, REQUIREMENTS — SALE — PRICE — COST. — Bonds of the authority may be issued as serial bonds, as term bonds, or as a combination of both types. All such bonds issued by the authority shall be payable solely from and secured by a pledge of revenues derived from or by reason of the ownership of student loan notes and investment income or as may be designated in a bond resolution authorized by the authority. Such bonds may be executed and delivered by the authority at any time and from time to time, may be in such form and denomination or denominations and of such terms and maturities, may be in fully registered form or in bearer form, registrable either as to principal or interest or both, may bear such conversion privileges, may be payable in such installment or installments and at such time or times not exceeding **[**thirty**]** **forty** years from the date of the issuance thereof, may be payable at such place or places whether within or without the state of Missouri, may bear interest at such rate or rates per annum as determined by the authority without regard to section 108.170, RSMo, may be made payable at such time or times and at such place or places, may be evidenced in such manner, may be executed by such officers of the authority, may have attached thereto, in the case of bearer bonds or bonds registrable as to principal only, interest coupons bearing the facsimile signature of the secretary of the authority, and may contain such provisions not inconsistent herewith, all as shall be provided in the bond resolution or resolutions of the authority whereunder the bonds shall be authorized to be issued. If deemed advisable by the authority, there may be retained in the bond resolution under which any bonds of the authority are authorized to be issued an option to call for redemption in advance of maturity all or any part of such bonds as may be specified in the bond resolution, at such price or prices, upon the giving of such notice or notices, and upon such terms and conditions as may be set forth in the bond resolution and as may be recited on the face of the bonds, but nothing in this section shall be construed to confer upon the authority the right or option to call for redemption in advance of maturity any bonds except as may be provided in the bond resolution under which they shall be issued. The bonds of the authority may be sold at public or private sale for such price, in such manner, and from time to time as may be determined by the authority notwithstanding the provisions of section 108.170, RSMo, and the authority may pay all expenses, premiums, and commissions which it may deem necessary or advantageous in connection with the issuance thereof from the proceeds of the bonds. Other forms of indebtedness issued by the authority shall have such terms as may be provided in a bond resolution authorized by the authority. Any such indebtedness may bear interest at such rates and be sold in such manner as may be determined by the authority notwithstanding the provisions of section 108.170, RSMo, and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance thereof from proceeds therefrom or from other funds of the authority.

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) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver, or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate shall either mail or deliver, or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the documents and fee required in subdivision (3) of this section, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the **[**first lienholder**]** **owner** named in it or if a lienholder has elected to have the director of revenue retain possession of an electronic certificate of title, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate as prescribed in section 306.405. Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title being electronically retained by the director and provide confirmation of the addition to both lienholders.

361.130. REPORTS TO DIRECTOR — INFORMATION ACCEPTED IN LIEU OF REPORTS. — 1. The director shall require all financial institutions under his **or her** supervision to make regular periodic reports of their condition to him **or her**, and in addition **[**he**]** **the director** may require special reports at such times as he **or she** may prescribe. The director shall prescribe the form and contents of all such reports. Such reports shall be verified and the director shall prescribe the form of verification.

2. The director, at least two times in each year, shall designate some day as of which every bank or trust company under **[**his**]** **the director's** supervision shall report to him **or her**. **[**He**]** **The director** shall serve a notice designating such day by delivering a copy thereof to some officer of such corporation at its place of business or by mail, postage prepaid, addressed to such corporation at its principal place of business.

3. In lieu of requiring direct filing of reports of condition, the director may obtain the information from data filed with federal regulatory agencies but may require verification and the filing of supplemental information as the director deems necessary.

361.140. PREPARATION OF INFORMATION FOR REPORT OF DEPARTMENT OF ECONOMIC DEVELOPMENT. — 1. The director of finance shall prepare the following information to be included in the report of the director of the department of economic development:

(1) A summary of the state and condition of every corporation required to report to him **or her** and from which reports have been received **or obtained pursuant to subsection 3 of section 361.130** during the preceding two years, at the several dates to which such reports refer, with an abstract of the whole amount of capital reported by them, the whole amount of their debts and liabilities and the total amount of their resources, specifying in the case of banks and trust companies the amount of lawful money held by them at the time of their several reports,

and such other information in relation to such corporations as, in his **or her** judgment, may be useful;

(2) A statement of all corporations authorized by him **or her** to do business during the previous biennium with their names and locations and the dates on which their respective certificates of incorporation were issued, particularly designating such as have commenced business during the biennium;

(3) A statement of the corporations whose business has been closed either voluntarily or involuntarily, during the biennium, with the amount of their resources and of their deposits and other liabilities as last reported by them and the amount of unclaimed and unpaid deposits, dividends and interest held by him **or her** on account of each;

(4) A statement of the amount of interest earned upon all unclaimed deposits, dividends and interest held by him **or her** pursuant to the requirements of this chapter;

(5) Any amendments to this chapter, which, in his **or her** judgment, may be desirable;

(6) The names and compensation of the deputies, clerks, examiners, special agents and other employees employed by him **or her**, and the whole amount of the receipts and expenditures of the division during each of the last two preceding fiscal years.

2. All such reports shall be printed at the expense of the state and paid for as other public printing.

361.160. EXAMINATION OF BANKS AND TRUST COMPANIES. — 1. The director of finance at least once each year, either personally or by a deputy or examiner appointed by the director, shall visit and examine every bank and trust company organized and doing business under the laws of this state, and every other corporation which is by law required to report to the director; except, for banks or trust companies receiving a Camel 1 or Camel 2 rating from the division of finance, the director of finance at least once each eighteen calendar months either personally or by a deputy or examiner appointed by the director, shall visit and examine such bank or trust company, and the director of finance, at the director's discretion, may conduct the director's examination, or any part thereof, on the basis of information contained in examination reports of other states, the Federal Deposit Insurance Corporation or the Federal Reserve Board or in audits performed by certified public accountants. **The director shall be afforded prompt and free access to any workpapers upon which a certified public accountant bases an audit. A certified public accountant shall retain workpapers for a minimum of three years after the date of issuance of the certified public accountant's report to the bank or trust company.** The director or the director's agent may concentrate the examinations on institutions which the director believes have safety or soundness concerns.

2. The director, or the deputy or examiners designated by the director for that purpose, shall have power to examine any such corporation whenever, in the director's judgment, it may be deemed necessary or expedient, and shall have power to examine every agency located in this state of any foreign banking corporation and every branch in this state of any out-of-state bank, for the purpose of ascertaining whether it has violated any law of this state, and for such other purposes and as to such other matters as the director may prescribe.

3. The director and the director's deputy and examiners shall have power to administer oaths to any person whose testimony may be required in such examination or investigation of any such corporation or agency, and to compel the appearance and attendance of any person for the purpose of any such examination or investigation.

4. On every such examination inquiry shall be made as to the condition and resources of such corporation, the mode of conducting and managing its affairs, the actions of its directors or trustees, the investment of its funds, the safety and prudence of its management, the security afforded to its creditors, and whether the requirements of its charter and of law have been complied with in the administration of its affairs, and as to such other matters as the director may prescribe.

5. The director may also make such special investigations as the director deems necessary to determine whether any individual or corporation has violated any of the provisions of this law.

6. Such examination may be made and such inquiry instituted or continued in the discretion of the director after the director has taken possession of the property and business of any such corporation, until it shall resume business or its affairs shall be finally liquidated in accordance with the provisions of this chapter.

7. The result of each examination shall be certified by the director or the examiner upon the records of the corporation examined and the result of all examinations during the biennial period shall be embodied in the report to be made by the director of the department of economic development to the legislature.

8. The director may contract with regulators in other states to provide for the examination of Missouri branches of out-of-state banks and branches of banks whose home state is Missouri. The agreements may provide for the payment by the home state of the cost of examinations conducted by the host state at the request of the home state regulators.

361.170. EXPENSES OF EXAMINATION, HOW PAID — DIVISION OF FINANCE FUND, CREATED, USES, TRANSFERS TO GENERAL REVENUE FUND, WHEN. — 1. The expense of every regular and every special examination, together with the expense of administering the banking laws, including salaries, travel expenses, supplies and equipment, and including the direct and indirect expenses for rent and other supporting services furnished by the state, shall be paid by the banks and trust companies of the state, and for this purpose the director shall, prior to the beginning of each fiscal year, make an estimate of the expenses to be incurred by the division during such fiscal year. To this, there shall be added an amount equal to fifteen percent of the estimated expenses to pay the costs of rent and other supporting services such as the costs related to the division's services from the state auditor and attorney general and an amount sufficient to cover the cost of fringe benefits furnished by the state. From this total amount the director shall deduct the estimated amount of the anticipated annual income to the fund from all sources other than bank or trust company assessments. The director shall allocate and assess the remainder to the several banks and trust companies in the state on the basis of a weighted formula to be established by the director, which will take into consideration their total assets, as reflected in the last preceding report called for by the director pursuant to the provisions of section 361.130 **or from information obtained pursuant to subsection 3 of section 361.130** and, for trust companies which do not take deposits or make loans, the volume of their trust business, and the relative cost, in salaries and expenses, of examining banks and trust companies of various size and this calculation shall result in an assessment for each bank and trust company which reasonably represents the costs of the division of finance incurred with respect to such bank or trust company. A statement of such assessment shall be sent by the director to each bank and trust company on or before July first. One-half of the amount so assessed to each bank or trust company shall be paid by it to the state director of the department of revenue on or before July fifteenth, and the remainder shall be paid on or before January fifteenth of the next year.

2. Any expenses incurred or services performed on account of any bank, trust company or other corporation subject to the provisions of this chapter, outside of the normal expense of any annual or special examination, shall be charged to and paid by the corporation for whom they were incurred or performed.

3. The state treasurer shall credit such payments to a special fund to be known as the "Division of Finance Fund", which is hereby created and which shall be devoted solely to the payment of expenditures actually incurred by the division and attributable to the regulation of banks, trust companies, and other corporations subject to the jurisdiction of the division. Any amount, other than the fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section, remaining in such fund at the end of any fiscal year up to five percent of the amount assessed to the banks and trust companies pursuant to subsection 1 of this section shall not be transferred and placed to the credit of the general revenue fund as

provided in section 33.080, RSMo, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the division in the succeeding fiscal year and shall be applied by the division to the reduction of the amount to be assessed to banks and trust companies in such succeeding fiscal year; provided the fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section and any amount remaining in the division of finance fund at the end of the fiscal year which exceeds five percent of the amount assessed to the banks and trust companies pursuant to subsection 1 of this section shall be returned to general revenue.

362.010. DEFINITIONS.— When used in this chapter, the term:

(1) "Aggregate demand deposits" means the deposit against which reserves must be maintained by banks and trust companies and includes total deposits, all amounts due to banks, bankers and trust companies, the amount due on certified and cashier's checks, and for unpaid dividends, less the following items:

(a) Total time deposits;

(b) The amounts due it on demand from banks, bankers and trust companies, other than its reserve depositaries, including foreign exchange balances credited to it and subject to draft;

(c) The excess due it from reserve depositaries over the amount required to maintain its total reserves;

(2) "Assessment" shall be construed as synonymous with the word "forfeiture";

(3) "Bank" means any corporation soliciting, receiving or accepting money, or its equivalent, on deposit as a business, whether the deposit is made subject to check, or is evidenced by a certificate of deposit, a passbook, a note, a receipt, or other writing**, and specifically a commercial bank chartered under this chapter or a national bank located in this state**;

(4) "Demand deposits" means deposits, payment of which can legally be required **[**within thirty days**] as provided in federal law and regulation**;

(5) "Dividend period" means the period from the date as of which the last dividend of any corporation to which this chapter is applicable was declared to the date selected for the declaration of the next dividend; or the period from the date when its corporate existence began to the date as of which the first dividend is declared;

(6) "Net earnings" means the excess of gross earnings of any corporation to which this chapter is applicable over expenses and losses chargeable against the earnings during any dividend period;

(7) "Population" means population as determined by the last state or federal enumeration; or when used in connection with the words "unincorporated village" as determined by the finance commissioner from the best available sources of information**, except as otherwise provided in this chapter**;

(8) "Reserve depositary" means a bank, trust company or banking corporation approved by the finance director as a depositary for reserves on deposit;

(9) "Reserves on deposit" means the reserves against deposits maintained by any corporation pursuant to this chapter in reserve depositaries, or in a federal reserve bank of which the corporation is a member, and not in excess of the amount authorized by this chapter;

(10) "Reserves on hand" means the reserves against deposits kept in the vault of any individual or corporation pursuant to the provisions of this chapter;

(11) "Stockholder", unless otherwise qualified, means a person who appears by the books of a stock corporation to be the owner and holder of one or more shares of the stock of the corporation;

(12) "Surplus" means the excess of assets over liabilities including liability to stockholders;

(13) "Surplus fund" means a fund created pursuant to the provisions of this chapter by a bank or trust company from its net earnings or undivided profits, which to the amount specified

in this chapter is not available for the payment of dividends and cannot be used for the payment of expenses or losses so long as any corporation has undivided profits;

(14) "Time deposits" means all deposits, the payment of which cannot legally be required **[**within thirty days**] as provided in federal law and regulation**;

(15) "Total profits" means the total amount of undistributed net earnings of any corporation to which this chapter is applicable from the date of its organization, including such portions of its surplus fund or guaranty fund as have been derived from net earnings or from undivided profits;

(16) "Total reserves" means the aggregate of reserves on hand and reserves on deposit maintained pursuant to the provisions of this chapter;

(17) "Undivided profits" means the credit balance of the profit and loss account of any corporation to which this chapter is applicable.

362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES. — 1. Every bank and 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:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of this subsection where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions;

provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

(8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

(9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(10) **[**Purchase, lease, hold**]** **Acquire** or convey real property for the following purposes:

(a) **[**With the approval of the director, plots whereon there is or may be erected a building or buildings suitable for the convenient conduct of its functions or business or for customer or employee parking even though a revenue may be derived from portions not required for its own use, and as otherwise permitted by law;

(b)**]** Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business; **and**

[(c)**]** **(b)** Real property purchased at sales under judgment, decrees or liens held by it;

(11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408, RSMo, are not applicable;

(12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

(13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the

corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (10) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

(14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409, RSMo, regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

(15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

(16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) **[**Invest up to its legal loan limit in a building or buildings suitable for the convenient conduct of its business, including, but not limited to, a building or buildings suitable for the convenient conduct of its functions, parking for bank, trust company and leasehold employees and customers and real property for landscaping. Revenue may be derived from renting or leasing a portion of the building or buildings and the contiguous real estate; provided that, such bank or trust company has assets of at least two hundred million dollars**] Purchase or lease, in an amount not exceeding its legal loan limit, real property and improvements thereto suitable for the convenient conduct of its functions. The bank may derive income from renting or leasing such real property or improvements or both. If the purchase or lease of such real property or improvements exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder or a related interest of such person, prior approval shall be obtained from the director of finance**; and

(2) Loan money on real estate and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depositary, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest

of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105, RSMo, and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.

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, **or obtained by the director pursuant to subsection 3 of section 361.130, RSMo,** 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**, nondepository trust company,** 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 interpretative 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.

362.111. FEES AND SERVICE CHARGES PERMITTED, WHEN, CONDITIONS. — A bank or trust company may impose fees or service charges on deposit accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 361.105, RSMo, by the director of the division of finance and the state banking board. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

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 **or obtained by the director pursuant to subsection 3 of section 361.130, RSMo. For purposes of lending limitations, goodwill may comprise no more than ten percent of unimpaired capital**.

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 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.

362.295. REPORTS TO DIRECTOR — PUBLICATION — PENALTY. — 1. Within ten days after service upon it of the notice provided for by section 361.130, RSMo, every bank and trust company shall make a written report to the director, which report shall be in the form and shall contain the matters prescribed by the director and shall specifically state the items of capital, deposits, specie and cash items, public securities and private securities, real estate and real estate securities, and such other items as may be necessary to inform the public as to the financial condition and solvency of the bank or trust company, or which the director may deem proper to include therein. **In lieu of requiring direct filing of reports of condition, the director may accept reports of condition or their equivalent as filed with federal regulatory agencies and**

may require verification and the filing of supplemental information as the director deems necessary.

2. Every report shall be verified by the oaths of the president or vice president and cashier or secretary or assistant cashier or assistant secretary, and the verification shall state that the report is true and correct in all respects to the best of the knowledge and belief of the persons verifying it, and the report shall be attested by three directors, and shall be a report of the actual condition of the bank or trust company at the close of business on the day designated and which day shall be prior to the call. **If the director of finance obtains the data pursuant to subsection 3 of section 361.130, RSMo, the director may rely on the verification provided to the federal regulatory agency.**

3. Every report, exclusive of the verification, shall, within thirty days after it shall have been filed with the director, be published by the bank or trust company in one newspaper of the place where its place of business is located, or if no newspaper is published there, in a newspaper of general circulation in the town and community in which the bank or trust company is located; the newspaper to be designated by the board of directors and a copy of the publication, with the affidavit of the publisher thereto, shall be attached to the report; provided, if the bank or trust company is located in a town or city having a population exceeding ten thousand inhabitants, then the publication must be in a daily newspaper, if published in that city; but if the bank or trust company is located in a town or city having a population of ten thousand inhabitants or less, then the publication may be in either a daily or weekly newspaper published in the town or city as aforesaid; and in all cases a copy of the statement shall be posted in the banking house accessible to all.

4. The bank and trust company shall also make such other special reports to the director as he may from time to time require, in such form and at such date as may be prescribed by him, and the report shall, if required by him, be verified in such manner as he may prescribe.

5. If the bank or trust company shall fail to make any report required by this section on or before the day designated for the making thereof, or shall fail to include therein any matter required by the director, the bank or trust company shall forfeit to the state the sum of one hundred dollars for every day that the report shall be delayed or withheld, and for every day that it shall fail to report any omitted matter, unless the time therefor shall have been extended by the director. Should any president, cashier or secretary of the bank or trust company or any director thereof fail to make the statement so required of him or them, or willfully and corruptly make a false statement, he or they, and each of them, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, upon information, punished by a fine for each offense not exceeding five hundred dollars and not less than one hundred dollars, or by imprisonment not less than one or more than twelve months in the city or county jail, or by both such fine and imprisonment.

6. A bank or trust company may provide each written report required to be published free of charge to the public; and when each bank or trust company notifies their customers that such information is available; and when one copy of such information is available to each person that requests it, the newspaper publication provisions of this section shall not be enforced against such bank or trust company.

362.910. DEFINITIONS. — As used in sections 362.910 to 362.940, **[**except for section 362.925,**]** unless the context clearly indicates otherwise, the following terms mean:

(1) "Bank", any bank, trust company or national banking association which accepts demand deposits and makes loans, and which has its principal banking house in Missouri and a branch of any bank, trust company or national banking association which accepts demand deposits and which has a physical presence in Missouri, other than a branch located outside of Missouri;

(2) "Bank holding company", any company which has control over any bank or over any company that is a bank holding company;

(3) "Company", any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or

not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, but shall not include any corporation the majority of the shares of which are owned by the United States or by any state;

(4) "Control", a company has control over a bank**, trust company,** or company if:

(a) The company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote twenty-five percent or more of any class of voting securities of the bank or company;

(b) The company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(c) The company directly or indirectly exercises a controlling influence over the management or policies of the bank or company;

(d) Provided, however, no company shall be deemed to have control over a bank or a company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities and which are held only for such period of time as will permit the sale thereof upon a reasonable basis, or which is formed for the sole purpose of participating in a proxy solicitation, or which acquires ownership or control of shares in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition, or which acquires ownership or control of shares in a fiduciary capacity. For the purpose of sections 362.910 to 362.940, bank shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or company in its capacity as trustee of a trust has sole discretionary authority to exercise voting rights with reference thereto; except that this limitation is applicable in the case of a bank or company which acquired such shares prior to December 31, 1970, only if the bank or company had the right consistent with its obligations under the instrument, agreement, or other arrangement establishing the trust relationship to divest itself of such voting rights and failed to exercise that right to divest prior to December 31, 1971;

(5) "Director" or "director of finance", the director of the division of finance of the department of economic development**;**

(6) "Trust holding company", any company which has control over any trust company or over any company that is a trust holding company.

362.923. BANK HOLDING COMPANIES, EXAMINATION OF, WHEN — CONSIDERED NEW BUSINESS ENTITY, WHEN. — 1. The director of the division of finance may enter into cooperative and reciprocal agreements with the federal reserve banks for periodic examination of bank holding companies on a joint or alternating basis, but, except in extraordinary situations, no such agreements may be concluded which would result in a bank holding company being examined more frequently than once every twelve months. The director may accept reports of examination and other exchanges of information from such agencies in lieu of conducting his own examinations and compiling his own reports, and may provide reports of examination and other information to such agencies.

2. A trust holding company or a company formed to be a trust holding company, as hereinafter described, is a new business entity under Missouri law and is not subject to federal reserve examination. The director of the division of finance shall contract with the parties that charter such entity to obtain safety and soundness authority as a condition for such entity's acquisition of a trust company. To simplify such process:

(1) A trust holding company or a company formed to be a trust holding company which seeks to acquire control of any nondepositary trust company shall file an application with the division of finance;

(2) The director shall determine if the proposed acquisition of a nondepositary trust company by a trust holding company is consistent with the interests of promoting and maintaining sound trust companies;

(3) The director may issue an order approving or disapproving the proposed acquisition of a nondepositary trust company by a trust holding company and may

present, enforce, advocate, or defend the order in any judicial or administrative proceeding; and

(4) The director may examine and investigate any trust holding company as appropriate or necessary to carry out the director's duties. The director may enter into cooperative and reciprocal agreements with federal and state regulatory authorities appropriate to such functions and may share reports and information or pursue joint actions or concurrent jurisdiction with federal and state regulatory authorities.

364.030. FINANCIAL INSTITUTIONS TO OBTAIN LICENSE, EXCEPTIONS — APPLICATION — FEE. — 1. No person shall engage in the business of a financing institution in this state without a license therefor as provided in this chapter; except, however, that no bank, trust company, loan and investment company, licensed sales finance company, registrant under the provisions of sections 367.100 to 367.200, RSMo, or person who makes only occasional purchases of retail time contracts or accounts under retail charge agreements and which purchases are not being made in the course of repeated or successive purchase of retail installment contracts from the same seller, shall be required to obtain a license under this chapter but shall comply with all the laws of this state applicable to the conduct and operation of a financing institution.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of three hundred dollars for each place of business of the licensee in this state which shall be paid into the general revenue fund. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

4. Each license shall specify the location of the office or branch and must be conspicuously displayed therein. In case the location is changed, the director shall either endorse the change of location of the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of an application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a financing institution under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

364.105. REGISTRATION REQUIRED — FEE — FORMS. — 1. No person shall engage in the business of a premium finance company in this state without first registering as a premium finance company with the director.

2. The annual registration fee shall be three hundred dollars payable to the director as of the first day of July of each year. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

3. Registration shall be made on forms prepared by the director and shall contain the following information:

(1) Name, business address and telephone number of the premium finance company;

(2) Name and business address of corporate officers and directors or principals or partners;

(3) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:

(a) The premium finance company is financially capable to engage in the business of insurance premium financing; and

(b) If a corporation, that the corporation is authorized to transact business in this state;

(4) If any material change occurs in the information contained in the registration form, a revised statement shall be submitted to the director accompanied by an additional fee of one hundred dollars.

365.030. SALES FINANCE COMPANY, LICENSE REQUIRED — EXCEPTIONS — APPLICATION — FEE. — 1. No person shall engage in the business of a sales finance company in this state without a license as provided in this chapter; except, that no bank, trust company, savings and loan association, loan and investment company or registrant under the provisions of sections 367.100 to 367.200, RSMo, authorized to do business in this state is required to obtain a license under this chapter but shall comply with all of the other provisions of this chapter.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and such other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of three hundred dollars for each place of business of the licensee in this state. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

4. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location is changed, the director shall either endorse the change of location on the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

367.140. ANNUAL REGISTRATION — FEE, AMOUNT — CERTIFICATES, ISSUANCE, DISPLAY. — 1. Every lender shall, at the time of filing application for certificate of registration as provided in section 367.120 hereof, pay the sum of three hundred dollars as an annual registration fee for the period ending the thirtieth day of June next following the date of payment and in full payment of all expenses for investigations, examinations and for the administration of sections 367.100 to 367.200, except as provided in section 367.160, and thereafter a like fee shall be paid on or before June thirtieth of each year; provided, that if a lender is supervised by the commissioner of finance under any other law, the charges for examination and supervision required to be paid under said law shall be in lieu of the annual fee for registration and examination required under this section. The fee shall be made payable to the director of revenue. If the initial registration fee for any certificate of registration is for a period of less than twelve months, the registration fee shall be prorated according to the number of months that said period shall run. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

2. Upon receipt of such fee and application for registration, and provided the bond, if required by the director, has been filed, the director shall issue to the lender a certificate containing the lender's name and address and reciting that such lender is duly and properly registered to conduct the supervised business. The lender shall keep this certificate of registration posted in a conspicuous place at the place of business recited in the registration certificate. Where the lender engages in the supervised business at or from more than one office or place of

business, such lender shall obtain a separate certificate of registration for each such office or place of business.

3. Certificates of registration shall not be assignable or transferable except that the lender named in any such certificate may obtain a change of address of the place of business therein set forth. Each certificate of registration shall remain in full force and effect until surrendered, revoked, or suspended as herein provided.

367.509. QUALIFICATIONS OF APPLICANTS, FEE, LICENSE ISSUED, WHEN. — 1. A title loan license applicant must have and maintain capital of at least seventy-five thousand dollars at all times.

2. The license application shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant, date of formation if a business entity, the address of each title loan office operated or sought to be operated, the name and residential address of the owner, partners, directors, trustees and principal officers, and such other pertinent information as the director may require. A corporate surety bond in the principal sum of twenty thousand dollars per location shall accompany each license application. The bond shall be in a form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state in order to ensure the faithful performance of the obligations of the applicant and the applicant's agents and subagents in connection with title loan activities. An applicant or licensee may, in lieu of filing any bond required pursuant to this section, provide the director with an irrevocable letter of credit as defined in section 400.5-103, RSMo, in the amount of twenty thousand dollars per location, issued by any bank, trust company, savings and loan or credit union operating in Missouri in a form acceptable to the director.

3. Every person applying for a title loan license shall pay one thousand dollars as an investigation fee. Applicants for additional title lending licenses shall pay one thousand dollars per additional location as an investigation fee. The lender shall, beginning with the first license renewal, pay annually to the director a fee of one thousand dollars for each licensed location.

4. Each license shall specify the location of the title loan office and shall be conspicuously displayed therein. Before any title lending office may relocate, the director shall approve such relocation by mailing the licensee a new license to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, by a person eligible to apply for a title loan license, the director shall issue a license to engage in the title loan business in accordance with sections 367.500 to 367.533. The licensing year shall commence on January first and end the following December thirty-first. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.** Each license shall be uniquely numbered and shall not be transferable or assignable. **[**Renewal licenses shall be effective for a period of one year.**]**

369.159. FEE OR SERVICE CHARGE AUTHORIZED. — **[**An association may make a service charge on accounts subject to such conditions or requirements as may be fixed by regulations of the director of the division of finance. No limitation shall be placed upon service charges on NOW accounts.**] An association may impose fees or service charges on accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 369.301 by the director of the division of finance and the state savings and loan commission. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.**

370.171. FEE OR SERVICE CHARGE AUTHORIZED. — A credit union may impose fees or service charges on deposit accounts or similar accounts; however, such fees or service

charges are subject to such conditions or requirements that may be fixed by regulations pursuant to this chapter by the director of credit union supervision and the credit union commission. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

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:

(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 **five dollars** by **[**another**] an electronic** medium authorized by filing-office rule**[**, of which fee seven dollars is received and collected by the secretary of state on behalf of the 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:

(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 **five dollars** by **[**another**] an electronic** medium authorized by filing-office rule**[**, of which fee seven dollars is received and collected by the secretary of state on behalf of the 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 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 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 (d) of this section on behalf of the 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 be deemed to be 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.**]** **The provisions of this section shall become effective on September 1, 2003.**

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 **provided to the cardholder** 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.

408.140. 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 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**]** **fifteen** dollars, whichever is **[**less**]** **greater, not to exceed fifty dollars**; 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**]** **twenty-five** 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 subdivision applies to nonprecomputed loans only and does not affect any other 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.

408.233. ADDITIONAL CHARGES AUTHORIZED. — 1. No charge other than that permitted by section 408.232 shall be directly or indirectly charged, contracted for or received in connection with any second mortgage loan, except as provided in this section:

(1) Fees and charges prescribed by law actually and necessarily paid to public officials for perfecting, releasing, or satisfying a security interest related to the second mortgage loan;

(2) Taxes;

(3) Bona fide closing costs paid to third parties, which shall include:

(a) Fees or premiums for title examination, title insurance, or similar purposes including survey;

(b) Fees for preparation of a deed, settlement statement, or other documents;

(c) Fees for notarizing deeds and other documents;

(d) Appraisal fees; and

(e) Fees for credit reports;

(4) Charges for insurance as described in subsection 2 of this section;

(5) A nonrefundable origination fee not to exceed five percent of the principal which may be used by the lender to reduce the rate on a second mortgage loan;

(6) Any amounts paid to the lender by any person, corporation or entity, other than the borrower, to reduce the rate on a second mortgage loan or to assist the borrower in qualifying for the loan;

(7) For revolving loans, an annual fee not to exceed fifty dollars may be assessed.

2. An additional charge may be made for insurance written in connection with the loan, including insurance protecting the lender against the borrower's default or other credit loss, and:

(1) For insurance against loss of or damage to property where no such coverage already exists; and

(2) For insurance providing life, accident, health or involuntary unemployment coverage.

3. The cost of any insurance shall not exceed the rates filed with the division of insurance, and the insurance shall be obtained from an insurance company duly authorized to conduct business in this state. Any person or entity making second mortgage loans, or any of its employees, may be licensed to sell insurance permitted in this section.

4. On any second mortgage loan, a default charge may be contracted for and received for any installment or minimum payment not paid in full within fifteen days of its scheduled due date equal to five percent of the amount or **[**twenty-five**]** **fifteen** dollars, whichever is **[**less**]** **greater, not to exceed fifty dollars**. A default charge may be collected only once on an installment or a payment due however long it remains in default. A default charge may be collected at the time it accrues or at any time thereafter and for purposes of subsection 3 of section 408.234 a default charge shall be treated as a payment. No default charge may be collected on an installment or a payment due which is paid in full within fifteen days of its scheduled due date even though an earlier installment or payment or a default charge on earlier installment or payments may not have been paid in full.

5. The lender shall, in addition to the charge authorized by subsection 4 of this section, be allowed to assess the borrower or other maker of refused instrument the actual charge made by any institution for processing the negotiable instrument, plus a handling fee of not more than **[**fifteen**]** **twenty-five** dollars; and, 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 are not handled by a salaried employee of the holder of the contract or note.

408.455. VARIABLE RATE AGREEMENTS SUBJECT TO CERTAIN PROVISIONS. — All contracts or agreements **originally** subject to **[**section**]** **sections** 408.450 **to 408.470, existing on August 28, 2003,** shall **[**also be**]** **remain** subject to the provisions of sections 408.140, 408.150,

408.160 and 408.550 to 408.562**, even if the contract or agreement is converted into another form of credit**.

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 director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.** 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 first renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by 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.

447.510. UNCLAIMED FUNDS HELD AND OWING BY INSURANCE COMPANY PRESUMED ABANDONED, WHEN — UNCLAIMED FUNDS DEFINED — DISTRIBUTION OF ABANDONED PROPERTY, WHEN. — 1. Unclaimed funds, as defined in this section, held and owing by an insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

2. "Unclaimed funds", as used in this section, means all moneys held and owing by any insurance corporation unclaimed and unpaid for more than seven years or five years as provided in section 447.536 after the moneys became due and payable as established from the records of the corporation under any property insurance or casualty insurance policy or any life or endowment insurance policy or annuity contract which has matured or terminated, including all unpaid drafts, except drafts issued for the purpose of an offer of settlement. It shall be the responsibility of the issuing company to establish that an unpaid draft was tendered as a settlement offer. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years or five years as provided in section 447.536:

(1) Assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan; or

(2) Corresponded in writing with the life insurance corporation concerning the policy.

Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

3. (1) Property distributable in the course of a demutualization, rehabilitation, or related reorganization of an insurance company is deemed abandoned two years after the date the property is first distributable if, at the time of the first distribution the last known address of the owner on the books and records of the holder is known to be incorrect, or the distribution or statements are returned by the post office as undeliverable; and the owner:

(a) Has not communicated in writing with the holder or its agent regarding the property; or

(b) Otherwise communicated with the holder regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(2) Property distributable in the course of demutualization, rehabilitation, or related reorganization of a mutual insurance company that is not subject to subsection 1 of this section shall be reportable as otherwise provided in section 447.536.

(3) The initial report for December 31, 2002, required pursuant to this subsection shall be filed no later than November 1, 2003. Any additional reports of property subject to subsection 1 of this section shall be reported and delivered no later than May first of each year for all property to be reported pursuant to this subsection for December of the preceding year.

[408.450. VARIABLE RATE AGREEMENT BY PARTIES, REQUIREMENT, LIMITATION — ACCOUNT FLUCTUATION, WHEN — NOT APPLICABLE TO CREDIT CARDS — INTEREST, HOW COMPUTED — PREPAYMENT PENALTIES, PROHIBITED. — 1. Notwithstanding the provisions of any other law, the parties to any written contract may agree to and stipulate for any rate per annum of interest time charge or time price differential not in excess of twenty-four percent per annum that does not exceed for any calendar period, as set forth in subsections 2 and 3 of this section, the average auction rate quoted on a nominal discount basis by the Federal Reserve Board for twenty-six-week treasury bills for the preceding auction, multiplied by two; however, if the preceding auction shall fall on the last day of the preceding month, then the rate shall be determined by the next preceding auction.

2. All open-end accounts shall fluctuate no more often than monthly and no less often than quarterly.

3. All closed-end accounts shall fluctuate no more often than quarterly and no less than annually; and only one formula and one index shall be used to determine the rate or time price differential for any one closed-end account.

4. This section shall not apply to open-end credit under which a credit card has been issued or any extension of credit made pursuant to sections 408.250 to 408.370.

5. Interest or time price differential on contracts subject to sections 408.450 to 408.467 shall be computed on a simple interest basis.

6. There shall be no prepayment penalty on any contract subject to sections 408.450 to 408.467.

7. No creditor shall refuse credit to a person solely because of his refusal to accept the provisions of sections 408.450 to 408.467.

8. The amount of regular, periodic payments on closed-end accounts shall not be changed, but the total number of payments due may be increased or decreased as a result of changes in the rate.**]**

[408.460. OPEN-END CONTRACT, WITH VARIABLE RATE — DISCLOSURES REQUIRED TO BE GIVEN OBLIGOR — RIGHT OF TERMINATION, REJECTION OF NEW RATE BY OBLIGOR, EFFECT. — 1. If an open-end contract provides for or is amended to provide for, pursuant to section 408.450, a variable rate or amount according to any index, formula or provision of law disclosed to the obligor, the applicable rate ceiling is the ceiling as disclosed to the obligor. The monthly or quarterly ceiling shall be adjusted in accordance with and limited by section 408.450.

2. In any open-end account, the creditor may provide in the agreement covering the open-end account, or may amend the agreement to provide that the terms, including the formula used to determine the rate on the open-end account, will be subject to revision as to current and future balances, from time to time, by notice from the creditor to the obligor. Any creditor revising an open-end account pursuant to sections 408.450 to 408.467 shall disclose in the notice:

(1) The new formula to be used in computing the rate;

(2) The date on which the new rate formula will become effective;

(3) Whether the rate shall change monthly or quarterly and whether or not it will affect current as well as future balances;

(4) The obligor's rights under this section and the procedures for the obligor to exercise those rights;

(5) The address to which the obligor may send notification of the obligor's election not to continue the open-end account. If the amendment increases the rate, the notice shall contain the

following printed in not less than 10-point bold-face type or equivalent: "YOU MAY TERMINATE THIS ACCOUNT IF YOU DO NOT WISH TO PAY THE NEW RATE."

3. With a notice required by subsection 2 of this section, the creditor shall include a form which may be returned at the expense of the creditor and on which the obligor may indicate his decision to terminate the account by checking or marking an appropriate box, or similar arrangement. The form may be included on a portion of the account statement to be returned to the creditor or on a separate sheet. Any obligor who is mailed a notice required by subsection 2 of this section, addressed to the obligor's last known address as shown by the creditor's records, is considered to have agreed to the revision if the obligor, or a person authorized by the obligor, after the expiration of five days after the notice is mailed, accepts or uses any extensions of credit or if the obligor elects to retain the privilege of using the open-end account. Such an election is considered to have occurred unless the obligor notifies the creditor in writing before the twenty-first day after the date on which the notice is sent that the obligor does not wish to continue the open-end account. The parties may also amend the contract by any other means permitted by any applicable law. Any obligor who rejects a rate change in accordance with this section has the right to pay off the then existing balance on the open-end account at the rate, and over the time period, in effect prior to the change, and at the same minimum payment terms previously agreed to, unless the obligor agrees to the new rates in accordance with this section. Rejection of the new rates may constitute termination of the account at the lender's option; however, the lender may not, in absence of an existing delinquency, accelerate the balance due.**]**

[408.465. CEILING COMPUTATION — INFORMATION TO COMPUTE UNAVAILABLE, DUTY OF LENDER, EFFECT. — 1. If the furnishing of any of the information required to compute the ceiling is discontinued so that it is no longer available to the lender from the Federal Reserve Board on a timely basis, the lender shall obtain that information from reliable sources satisfactory to the commissioner of finance.

2. If the information required to compute a ceiling is not available, then that ceiling remains at the level at which it was when the information became available until the information again becomes available.**]**

[408.467. RENEWAL OR EXTENSION OF CONTRACT, MAXIMUM RATE. — The maximum rate on any contract to renew or extend the terms of payment of any indebtedness made pursuant to sections 408.450 to 408.465 is the applicable ceiling allowed by sections 408.450 to 408.465 for a contract entered at the time the renewal or extension is made or agreed to.**]**

[408.470. CERTAIN LOANS AND TIME PRICE SALES LAW NOT APPLICABLE. — Sections 408.450 to 408.467 shall not apply to any loans or time price sales on which the rate of interest or time price differential charged is lawful without regard to the rates permitted in section 408.450.**]**

[408.653. FEE LIMITATIONS, OVERDRAFTS. — 1. A depository institution including any state or federally chartered bank, credit union, savings and loan association or any similar institution may charge no more than fifteen dollars as an overdraft charge or as a charge for a check, draft or similar sight order returned for insufficient or uncollected funds.

2. Any person to whom a check, draft, order or like instrument is tendered may, if such instrument is dishonored or returned unpaid for any reason, charge and collect from the maker or drawer, or the person for whose benefit such instrument was given, the amount of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument. No such charge will be considered interest, finance charge, time price differential or anything of a similar nature for purposes of any statute in this state.**]**

[408.654. OVERDRAFT CHARGE, AMOUNT. — Notwithstanding any other provisions of law to the contrary, a depository institution, including any state or federally chartered bank, credit union, savings and loan association or similar institution, may charge up to twenty dollars as an overdraft charge when the check, draft or similar sight order is presented for the first time to the depository institution and the depository institution pays such check, draft or similar sight order upon presentation or up to fifteen dollars as a charge for a check, draft or similar sight order returned because the customer has insufficient or uncollected funds in the customer's depository institution account.**]**

Approved June 26, 2003

SB 351 [SCS SB 351]

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 procedure in which parental or guardian consent is noted for the organ donation process of minors.

AN ACT to repeal section 194.220, RSMo, and to enact in lieu thereof one new section relating to health care.

SECTION
A. Enacting clause.
194.220. Persons who may execute an anatomical gift.

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

SECTION A. ENACTING CLAUSE. — Section 194.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 194.220, 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 **as the attorney-in-fact pursuant to subsection 2 of this section**, 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. The provisions of this subsection, 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, through the driver's license or instruction permit application process, shall be effective July 1, 2003.

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 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 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.

Approved July 1, 2003

SB 355 [HCS SB 355]

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

Allows persons registering their vehicle to make a $1 donation to the organ donor program.

AN ACT to repeal sections 194.220 and 301.020, RSMo, and to enact in lieu thereof two new sections relating to the organ donor program, with penalty provisions.

SECTION
A. Enacting clause.
194.220. Persons who may execute an anatomical gift.
301.020. Application for registration of motor vehicles, contents — certain vehicles, special provisions — penalty for failure to comply — optional blindness assistance donation — donation to organ donor program permitted.

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

SECTION A. ENACTING CLAUSE. — Sections 194.220 and 301.020, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 194.220 and 301.020, 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, **as the attorney-in-fact pursuant to subsection 2 of this section,** 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. The provisions of this subsection, 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, through the driver's license or instruction permit application process, shall be effective July 1, 2003.

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 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 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.

301.020. APPLICATION FOR REGISTRATION OF MOTOR VEHICLES, CONTENTS — CERTAIN VEHICLES, SPECIAL PROVISIONS — PENALTY FOR FAILURE TO COMPLY — OPTIONAL BLINDNESS ASSISTANCE DONATION — DONATION TO ORGAN DONOR PROGRAM PERMITTED. — 1. Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, except as herein otherwise expressly provided, shall annually file, by mail or otherwise, in the office of the director of revenue, an application for registration on a blank to be furnished by the director of revenue for that purpose containing:

(1) A brief description of the motor vehicle or trailer to be registered, including the name of the manufacturer, the vehicle identification number, the amount of motive power of the motor vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a motor vehicle primarily for business use as defined in section 301.010;

(2) The name, the applicant's identification number and address of the owner of such motor vehicle or trailer;

(3) The gross weight of the vehicle and the desired load in pounds if the vehicle is a commercial motor vehicle or trailer.

2. If the vehicle is a motor vehicle primarily for business use as defined in section 301.010 and if such vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This section shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1989; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

3. If the vehicle is any motor vehicle other than a motor vehicle primarily for business use, a recreational motor vehicle, motorcycle, motortricycle, bus or any commercial motor vehicle licensed for over twelve thousand pounds and if such motor vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection

report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This subsection shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1990; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

4. If the vehicle qualifies as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, non-USA-std motor vehicle, as defined in section 301.010, the owner or lienholder shall surrender the certificate of ownership. The owner shall make an application for a new certificate of ownership, pay the required title fee, and obtain the vehicle examination certificate required pursuant to section 301.190. Notarized bills of sale along with a copy of the front and back of the certificate of ownership for all major component parts installed on the vehicle and invoices for all essential parts which are not defined as major component parts shall accompany the application for a new certificate of ownership. If the vehicle is a specially constructed motor vehicle, as defined in section 301.010, two pictures of the vehicle shall be submitted with the application. If the vehicle is a kit vehicle, the applicant shall submit the invoice and the manufacturer's statement of origin on the kit. If the vehicle requires the issuance of a special number by the director of revenue or a replacement vehicle identification number, the applicant shall submit the required application and application fee. All applications required under this subsection shall be submitted with any applicable taxes which may be due on the purchase of the vehicle or parts. The director of revenue shall appropriately designate "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Non-USA-Std Motor Vehicle", or "Specially Constructed Motor Vehicle" on the current and all subsequent issues of the certificate of ownership of such vehicle.

5. Every insurance company which pays a claim for repair of a motor vehicle which as the result of such repairs becomes a reconstructed motor vehicle as defined in section 301.010 shall in writing notify the claimant, if he is the owner of the vehicle, and the lienholder if a lien is in effect, that he is required to surrender the certificate of ownership, and the documents and fees required pursuant to subsection 3 of this section, to the director of revenue. The insurance company shall within thirty days of the payment of such claims report to the director of revenue the name and address of such claimant, the year, make, model, vehicle identification number, and license plate number of the vehicle, and the date of loss and payment.

6. Anyone who fails to comply with the requirements of this section shall be guilty of a class B misdemeanor.

7. An applicant for registration may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one-dollar donation prescribed in this subsection.

8. An applicant for registration may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund as established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be

refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one-dollar donation prescribed in this subsection.

Approved July 1, 2003

SB 356 [SB 356]

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 change in the organ donation license law.

AN ACT to repeal section 302.171, RSMo, and to enact in lieu thereof one new section relating to organ donations.

SECTION

A. Enacting clause.

302.171. Application for license — form — content — educational materials to be provided to applicants under twenty-one — voluntary contribution to organ donation program — information to be included in registry — voluntary contribution to blindness assistance.

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

SECTION A. ENACTING CLAUSE. — Section 302.171, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.171, to read as follows:

302.171. APPLICATION FOR LICENSE — FORM — CONTENT — EDUCATIONAL MATERIALS TO BE PROVIDED TO APPLICANTS UNDER TWENTY-ONE — VOLUNTARY CONTRIBUTION TO ORGAN DONATION PROGRAM — INFORMATION TO BE INCLUDED IN REGISTRY — VOLUNTARY CONTRIBUTION TO BLINDNESS ASSISTANCE. — 1. Application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one-dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen

years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one-dollar donation prescribed in this subsection and whether the applicant is interested in **[**making an organ donation**] inclusion in the organ donor registry** and shall also specifically inform the licensee of the ability to **[**make an**] consent to** organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in **[**making organ donations**] registry participation**, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one-dollar donation prescribed in this subsection.

Approved July 9, 2003

SB 357 [SB 357]

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

Modifies venue for administrative actions involving real property.

AN ACT to repeal section 536.110, RSMo, and to enact in lieu thereof one new section relating to venue in administrative actions involving real property.

SECTION
A. Enacting clause.
536.110. Petition, when filed — process — venue.

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

SECTION A. ENACTING CLAUSE. — Section 536.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 536.110, to read as follows:

536.110. PETITION, WHEN FILED — PROCESS — VENUE. — 1. Proceedings for review may be instituted by filing a petition in the circuit court of the county of proper venue within thirty days after the mailing or delivery of the notice of the agency's final decision.

2. Such petition may be filed without first seeking a rehearing, but in cases where agencies have authority to entertain motions for rehearing and such a motion is duly filed, the thirty-day period aforesaid shall run from the date of the delivery or mailing of notice of the agency's decision on such motion. No summons shall issue in such case, but copies of the petition shall be delivered to the agency and to each party of record in the proceedings before the agency or to his attorney of record, or shall be mailed to the agency and to such party or his said attorney by registered mail, and proof of such delivery or mailing shall be filed in the case.

3. The venue of such cases shall, at the option of the plaintiff, be in the circuit court of Cole County or in the county of the plaintiff or of one of the plaintiff's residence or if any plaintiff is a corporation, domestic or foreign, having a registered office or business office in this state, in the county of such registered office or business office**, except that, in cases involving real property or improvements thereto, the venue shall be the circuit court of the county where such real property is located**. The court in its discretion may permit other interested persons to intervene.

Approved June 9, 2003

SB 371 [SB 371]

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

Allows MOHELA to provide loans for nonsectarian tuition and other costs for certain students.

AN ACT to repeal sections 173.355 and 173.385, RSMo, and to enact in lieu thereof two new sections relating to the Missouri higher education loan authority.

SECTION
A. Enacting clause.
173.355. Definitions.
173.385. Authority, powers and duties.

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

SECTION A. ENACTING CLAUSE. — Sections 173.355 and 173.385, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 173.355 and 173.385, to read as follows:

173.355. DEFINITIONS. — As used in sections 173.350 to 173.450, the following terms mean:

(1) "Authority", the Missouri higher education loan authority;

(2) "Board", the Missouri coordinating board for higher education;

(3) "Bond resolution", any indenture, resolution or other financing document pursuant to which revenue bonds, notes or other forms of indebtedness of the authority are issued or secured;

(4) "Commissioner", the Missouri commissioner of higher education;

(5) "Department", the Missouri department of higher education**;**

(6) "Secondary education loans", loans or notes originated by banks, other financial institutions, secondary education institutions or the authority, the proceeds of which are to be used to pay tuition for students enrolling for either junior or senior year at a secondary school which is accredited in accordance with applicable state law. Such loans shall be available only to the parents or guardians of those students who undertake courses of instruction for which post secondary school course credit may be awarded. Loan proceeds will not be available for any secondary school instruction which is sectarian in nature.

173.385. AUTHORITY, POWERS AND DUTIES. — The authority shall have the following powers, together with all powers incidental thereto or necessary for the performance thereof:

(1) To have perpetual succession as a body politic and corporate;

(2) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(3) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(4) To have and to use a corporate seal and to alter the same at pleasure;

(5) To maintain an office at such place or places in the state of Missouri as it may designate;

(6) To issue bonds or other forms of indebtedness to obtain funds to purchase student loan notes or finance student loans, or both, including those which are guaranteed under the provisions of sections 173.095 to **[**173.180**]** **173.187**, or under the provisions of the federal Higher Education Act of 1965, as amended, **or secondary education loans,** or scholarships which have been converted to loans under the Missouri teacher education scholarship program provided for in sections 160.276 to 160.283, RSMo. Such bonds or other forms of indebtedness shall be payable from and secured by a pledge of revenues derived from or by reason of the ownership of student loan notes or financing of student loans, or both, and investment income or shall be payable from and secured as may be designated in a bond resolution authorized by the authority. Such bonds or other forms of indebtedness shall not constitute a debt or liability of the state of Missouri or of any political subdivision thereof;

(7) To cause proceeds of any bond or any other form of indebtedness to be used to purchase student loan notes or finance student loans, or both, including those which are guaranteed under section 173.110, or guaranteed under the federal Higher Education Act of 1965, as amended, **or secondary education loans,** or scholarships which have been converted to loans under the Missouri teacher education scholarship program provided for in sections 160.276 to 160.283, RSMo;

(8) To sell or enter into agreements to sell student loan notes acquired pursuant to subdivision (7) of this section, and any agreement to sell student loan notes guaranteed under section 173.110 shall be subject to prior approval of the department. Such agreements to sell student loan notes shall be limited only by the terms of the bond resolution authorizing the issue of the bonds or other forms of indebtedness, but shall not be limited by any other provision of law limiting the sale of such student loan notes;

(9) To accept appropriations, gifts, grants, bequests, and devises and to utilize or dispose of the same to carry out its purpose;

(10) To make and execute contracts, releases, compromises, and other instruments necessary or convenient for the exercise of its powers, or to carry out its purpose;

(11) To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and in

connection with providing technical, consultative and project assistant services. Such fees and charges shall be used to pay the costs of the authority;

(12) To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States government or any instrumentality thereof, the principal and interest of which are guaranteed by the state of Missouri, or the United States government or any instrumentality thereof, or certificates of deposit or time deposits of federally insured banks, or federally insured savings and loan associations or of insured credit unions, or, with respect to moneys pledged or held under a trust estate or otherwise available for the owners of bonds or other forms of indebtedness, any investment authorized under the bond resolution governing the security and payment of such obligations or repurchase agreements for the specified investments;

(13) To acquire, hold and dispose of personal property for its purposes;

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

(15) To take any necessary actions to be qualified to issue tax-exempt bonds or other forms of tax-exempt indebtedness pursuant to the applicable provisions of the Internal Revenue Code of 1986, as amended;

(16) To take any necessary actions to be qualified to issue bonds or other forms of indebtedness, the interest on which is not exempt from federal income taxation;

(17) To service student loans for any owner thereof, regardless of whether such student loans are originated in this state or out of this state.

Approved May 8, 2003

SB 373 [HCS SCS SB 373]

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

Modifies provisions of the self-storage facilities act.

AN ACT to repeal sections 415.405, 415.410, 415.415, and 415.420, RSMo, and to enact in lieu thereof four new sections relating to warehouse and self-service storage facilities.

SECTION

A. Enacting clause.
415.405. Definitions.
415.410. Leased space not to be used as residence — operator may enter space, when — occupant to furnish operator certain information.
415.415. Lien on stored property, when, notice regarding, priority of, how enforced and satisfied — sale of property, procedure, duties of operator, distribution of proceeds — redemption by occupant, when.
415.420. Purchaser in good faith, not subject to certain liens — operator, limited liability, right to deny occupant access, when — notices, how and where sent.

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

SECTION A. ENACTING CLAUSE. — Sections 415.405, 415.410, 415.415, and 415.420, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 415.405, 415.410, 415.415, and 415.420, to read as follows:

415.405. DEFINITIONS. — As used in sections 415.400 to 415.430, the following terms shall mean:

(1) "Default", the failure to perform on time any obligation or duty set forth in a rental agreement;

(2) "Last known address", that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address;

(3) "Leased space", the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement;

(4) **"No commercial value", any property offered for sale in a commercially reasonable manner that receives no bid or offer;**

(5) "Occupant", a person, lessee, sublessee, successor or assignee entitled to the use of a leased space at a self-service storage facility under a rental agreement;

[(5)**] (6)** "Operator", the owner, operator, lessor or sublessor of a self-service storage facility, or an agent or any other person authorized to manage the facility; except that, the term "operator" does not include a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored;

[(6)**] (7)** "Personal property", movable property which is not affixed to land, including, but not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items, and furnishings;

(8) "Private sale", an unadvertised sale negotiated and concluded directly between the buyer and seller;

(9) "Public sale", a sale made after public notice;

[(7)**] (10)** "Rental agreement", any written contract or agreement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility, which is signed by the occupant and the operator;

[(8)**] (11)** "Self-service storage facility", any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis.

415.410. LEASED SPACE NOT TO BE USED AS RESIDENCE — OPERATOR MAY ENTER SPACE, WHEN — OCCUPANT TO FURNISH OPERATOR CERTAIN INFORMATION. — 1. An operator may not knowingly permit a leased space at a self-service storage facility to be used for residential purposes. An occupant may not use a leased space for residential purposes.

2. An operator may enter leased space at all times which are reasonably necessary to insure the protection and preservation of the self-service storage facility or any personal property stored therein.

3. Prior to placing any personal property into his leased space, each occupant shall deliver a written statement to the operator of such leased space containing the name and address of each person having a valid lien against such personal property.

4. The lessee shall be informed in writing that the lessor either does or does not have **[**liability**] casualty** insurance **on the lessee's property**.

415.415. LIEN ON STORED PROPERTY, WHEN, NOTICE REGARDING, PRIORITY OF, HOW ENFORCED AND SATISFIED — SALE OF PROPERTY, PROCEDURE, DUTIES OF OPERATOR, DISTRIBUTION OF PROCEEDS — REDEMPTION BY OCCUPANT, WHEN. — 1. The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in sale of such personal property, as provided in sections 415.400 to 415.430. The lien established by this subsection shall have priority over all other liens except those liens that have been perfected and recorded, on personal property. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien and that property stored in the leased space may be sold to satisfy such lien if the occupant is in default, and that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after the sale of the property.

2. If the occupant is in default for a period of more than thirty days, the operator may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased space for cash. Sale of the property stored on the premises may be done at a public or private sale, may be done as a unit or in parcels, or may be by way of one or more contracts, and may be at any time or place and on any terms as long as the sale is done in a commercially reasonable manner in accordance with the provisions of section **[**400.9-507**]** **400.9-627**, RSMo. The operator may otherwise dispose of any property which has no commercial value.

3. The proceeds of any sale made under this subsection shall be applied to satisfy the lien, with any surplus being held for delivery on demand to the occupant or any other lienholders which the operator knows of or which are contained in the statement filed by the occupant pursuant to subsection 3 of section 415.410 for a period of one year after receipt of proceeds of the sale and satisfaction of the lien. No proceeds shall be paid to an occupant until such occupant files a sworn affidavit with the operator stating that there are no other valid liens outstanding against the property sold and that he, the occupant, shall indemnify the operator for any damages incurred or moneys paid by the operator due to claims arising from other lienholders of the property sold. After the one-year period set in this subsection, any proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with laws pertaining to the disposition of unclaimed property.

4. Before conducting a sale under subsection 2 of this section, the operator shall:

(1) At least forty-five days before any disposition of property under this section, **which shall run concurrently with subsection 2 of this section,** notify the occupant and each lienholder **[**which the operator knows of or**]** which is contained in any statement filed by the occupant pursuant to subsection 3 of section 415.410 of the default by first-class mail at the occupant's or lienholder's last known address;

(2) No later than ten days after mailing the notice required in subdivision (1) of this subsection, mail a second notice of default, by registered or certified mail, to the occupant at the occupant's or lienholder's last known address, which notice shall include:

(a) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(b) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of release for sale and the date those additional charges shall become due;

(c) A demand for payment of the charges due within a specified time, not less than ten days after the date on which the second notice was mailed;

(d) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold after a specified time; and

(e) The name, street address and telephone number of the operator, or a designated agent whom the occupant may contact, to respond to the notice;

(3) At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held. Such advertisement shall be in the classified section of the newspaper and shall state that the items will be released for sale.

5. At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

415.420. PURCHASER IN GOOD FAITH, NOT SUBJECT TO CERTAIN LIENS — OPERATOR, LIMITED LIABILITY, RIGHT TO DENY OCCUPANT ACCESS, WHEN — NOTICES, HOW AND WHERE SENT. — 1. A purchaser in good faith of any personal property sold under sections 415.400 to 415.430 takes the property free and clear of any rights of any persons against whom the lien was valid and other lienholders.

2. If the operator complies with the provisions of sections 415.400 to 415.430, the operator's liability to the occupant shall be limited to the net proceeds received from the sale of the personal property, and to other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by the other lien.

3. If an occupant is in default, **[**once the operator has given the occupant notice under subdivision (1) of subsection 4 of section 415.415,**]** the operator may deny the occupant access to the leased space.

4. Unless otherwise specifically provided in sections 415.400 to 415.430, all notices required by sections 415.400 to 415.430 shall be sent by registered or certified mail. Notices sent to the operator shall be sent to the self-service storage facility where the occupant's property is stored. Notices to the occupant shall be sent to the occupant at the occupant's last known address. Notices shall be deemed delivered when deposited with the United States postal service, properly addressed as provided in subsection 4 of section 415.415, with postage prepaid.

Approved July 1, 2003

SB 376 [SB 376]

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

Changes the body that certifies a deputy coroner to the Missouri Coroners and Medical Examiners Association.

AN ACT to repeal section 58.096, RSMo, and to enact in lieu thereof one new section relating to deputy coroners.

SECTION

A. Enacting clause.
58.096. Compensation of deputy coroner, additional — training program, certification.

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

SECTION A. ENACTING CLAUSE. — Section 58.096, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 58.096, to read as follows:

58.096. COMPENSATION OF DEPUTY CORONER, ADDITIONAL — TRAINING PROGRAM, CERTIFICATION. — Each deputy county coroner, upon certification **[**by the county officials training commission**]** **by the Missouri coroners and medical examiners association** of attendance at a training program required by the provisions of **subsection 2 of** section **[**67.130, RSMo,**]** **58.095** shall receive annual compensation, in addition to other compensation, of one thousand dollars per year so long as **subsection 2 of** section **[**67.130, RSMo,**]** **58.095** remains in effect. This additional compensation shall be paid in the same manner and at the same times as other compensation is paid to the deputy county coroner. The provisions of this section shall not permit or require a reduction in the amount of compensation received by any person holding the office of deputy county coroner on January 1, 1989.

Approved July 1, 2003

SB 379 [CCS HCS SCS SB 379]

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 City of Springfield to remove or transfer real property from a district or zone designation.

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to community improvement districts.

SECTION
A. Enacting clause.
67.1442. Certain cities, removal of real property from district or change in class designation, purpose, procedure (Springfield).

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

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.1442, to read as follows:

67.1442. CERTAIN CITIES, REMOVAL OF REAL PROPERTY FROM DISTRICT OR CHANGE IN CLASS DESIGNATION, PURPOSE, PROCEDURE (SPRINGFIELD). — Upon the written request of any real property owner within any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants, the governing body of the municipality may hold a public hearing for the removal of real property from such district or a change in designation of the class of real property for the purpose of the types of services to be received or fees, taxes, or assessments to be levied, and such real property may be removed from such district or have its class designation changed to another class of the same district, provided that:

(1) The board consents to the removal of such property;

(2) The district can meet its obligations without the revenues generated by or on the real property proposed to be removed from the district or proposed to have its class designation changed; and

(3) The public hearing is conducted in the same manner as required by section 67.1431 with notice of the hearing given in the same manner as required by section 67.1431, except that postage prepaid first class mail shall be sufficient notice by mail for purposes of this section, and such notice shall include:

(a) The date, time, and place of the public hearing;

(b) The name of the district;

(c) The boundaries by street location, or other readily identifiable means if no street location exists of the real property proposed to be removed from the district or proposed to have its class designation changed, and a map illustrating the boundaries of the existing district and the real property proposed to be removed; and

(d) A statement that all interested persons shall be given an opportunity to be heard at the public hearing.

Approved July 9, 2003

SB 383 [SB 383]

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 recorder in manner of recording certain documents.

AN ACT to repeal section 59.330, RSMo, and to enact in lieu thereof one new section relating to recording documents.

SECTION
A. Enacting clause.
59.330. What shall be recorded — legal description required, when — validity.

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

SECTION A. ENACTING CLAUSE. — Section 59.330, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 59.330, to read as follows:

59.330. WHAT SHALL BE RECORDED — LEGAL DESCRIPTION REQUIRED, WHEN — VALIDITY. — 1. It shall be the duty of recorders to record:

(1) All deeds, mortgages, conveyances, deeds of trust, assignments, bonds, covenants, defeasances, or other instruments of writing, of or concerning any lands and tenements, or goods and chattels, which shall be proved or acknowledged **[**according to law**]**, and authorized to be recorded in their offices;

(2) All papers and documents found in their respective offices, of and concerning lands and tenements, or goods and chattels, and which were received from the Spanish and French authorities at the change of government;

(3) All marriage contracts and certificates of marriage;

(4) All commissions and official bonds required by law to be recorded in their offices;

(5) All written statements furnished to him for record, showing the sex and date of birth of any child or children, the name, business and residence of the father and maiden name of the mother of such child or children.

2. All deeds, mortgages, conveyances, deeds of trust, assignments, bonds, covenants or defeasances, except supplemental indentures of utility companies and rural electric cooperatives, must contain a legal description of the lands affected. All deeds, except deeds of easement or right-of-way conveying any lands or tenements must contain a mailing address of one of the grantees named in the instrument. The recorder of deeds shall not record such instrument absent such address or legal description; provided, however, that the statutory constructive notice or the validity of the instrument shall not be affected by the absence of the address or the absence of the legal description.

Approved July 9, 2003

SB 385 [HCS SCS SB 385]

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

Modifies how taxes are calculated for workers' compensation policies with deductible options.

AN ACT to repeal section 287.310, RSMo, and to enact in lieu thereof three new sections relating to workers' compensation policies.

SECTION
A. Enacting clause.
287.310. Policies to be approved by department of insurance — deductible plans authorized, requirements.
287.716. Surcharge on deductible plan policyholders, when, calculation of — notification of policyholders.
287.717. Surcharge collection, procedure — failure to pay, interest assessed, when.

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

SECTION A. ENACTING CLAUSE. — Section 287.310, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 287.310, 287.716, and 287.717, to read as follows:

287.310. POLICIES TO BE APPROVED BY DEPARTMENT OF INSURANCE — DEDUCTIBLE PLANS AUTHORIZED, REQUIREMENTS. — 1. Every policy of insurance against liability under this chapter shall be in accordance with the provisions of this chapter and shall be in a form approved by the director of the department of insurance. Such policy shall contain an agreement that the insurer accepts all of the provisions of this chapter, that the same may be enforced by any person entitled to any rights under this chapter as well as by the employer, that the insurer shall be a party to all agreements or proceedings under this chapter, and his appearance may be entered therein and jurisdiction over his person may be obtained as in this chapter provided, and such covenants shall be enforceable notwithstanding any default of the employer.

2. Any insurer issuing a workers' compensation policy may offer, as a part of the policy or as an optional endorsement to the policy, a deductible plan or plans to allow the insured employer to self-insure for the deductible amount, subject to the approval of the director of insurance. No deductible plan shall be approved which permits, directly or indirectly, any part of the deductible to be charged to or passed on to an employee of the insured employer.

3. Any deductible plan authorized under this section may provide for the agreement between the insurer and the insured employer regarding the conditions under which the employer shall be responsible for the payment of any deductible amount to the person or health care provider entitled to such payment pursuant to this chapter, except that no deductible plan shall be approved unless the insurer shall retain the ultimate responsibility for the payment of compensable claims. Where the agreement provides for the payment of the deductible amount by the insurer, the insurer shall pay all the deductible amount applicable to a compensable claim directly to the person or health care provider entitled to the benefit pursuant to this chapter, and shall then be reimbursed by the insured employer for such payments. The insured employer shall be liable to the insurer up to the limit of the deductible, and any failure on the part of the insured employer to provide such reimbursements shall be treated under the workers' compensation policy in the same manner as a nonpayment of premium. An employer's failure to reimburse deductible amounts to the insurer shall not cause the unpaid amount to be paid from the second injury fund under section 287.220. The insurer shall have the right to offset unpaid deductible amounts against unearned premiums, if any, in the event of a cancellation of the policy.

4. Deductible plans shall provide appropriate premium reductions, as approved by the director of insurance, to reflect the type and level of the deductible amount selected. Losses paid by the employer under the deductible shall be credited against the employer's experience modification while the deductible option is used, unless the employer exercises the right to purchase a gross reportable deductible plan.

5. An insurer shall not be required to offer a deductible if, as a result of a credit investigation, the insurer determines that the employer does not have the financial ability to be responsible for the payment of deductible amounts.

6. An insurer shall service and, if necessary, defend all claims that arise during the policy period, including those claims payable in whole or in part from the deductible amount.

7. No employer who self-insures for a deductible amount as provided in this section shall harass, discharge, or otherwise discriminate against any employee because the employee has taken any action or is considering taking action which might result in the insured employer being required to pay a deductible amount.

8. Any rating organization or advisory organization authorized by the provisions of section 287.330 may file on behalf of its members, deductible plans for approval by the director of insurance.

9. **[**In calculating the taxes owed under the provisions of this chapter for workers' compensation policies with deductible options, the premiums upon which the taxes are assessed shall be deemed to be those premiums which would have been paid in the absence of the deductible option.**]** **In calculating the administrative surcharge owed pursuant to the provisions of this chapter for workers' compensation policies with deductible options, the administrative surcharge owed will be based upon the total premiums, which would have been paid for the deductible credit portion of the policy. The second injury fund surcharge owed by the employer who purchases a deductible policy will be assessed upon the total premiums which would have been paid in the absence of the deductible option. The premium taxes owed pursuant to this chapter for workers' compensation policies with deductible options shall be assessed upon those total premiums paid upon the insurance policy excluding the deductible credit portion of the policy. The portion of the workers' compensation policy with a deductible option that is subject to an administrative surcharge shall not be subject to premium taxes, nor with respect to foreign insurance companies, the retaliatory tax imposed pursuant to section 375.916, RSMo.**

10. The director of insurance shall, by rule, specify any data reporting requirements applicable to workers' compensation policies with deductible options.

287.716. SURCHARGE ON DEDUCTIBLE PLAN POLICYHOLDERS, WHEN, CALCULATION OF — NOTIFICATION OF POLICYHOLDERS. — 1. For the purpose of providing funds for the administration of the workers' compensation division, the division director shall impose an annual administrative surcharge upon every workers' compensation deductible plan policyholder insured pursuant to the provisions of this chapter. An annual administrative surcharge imposed pursuant to this section shall apply to all workers' compensation policies with a deductible option that are written or renewed on or after January 1, 2004.

2. In calculating the administrative surcharge owed pursuant to the provisions of this chapter for workers' compensation policies with deductible options, the administrative surcharge owed will be based upon the total premiums, which would have been paid for the deductible credit portion of the policy. The annual administrative surcharge assessed shall be set at the same rate as the premium tax imposed by section 287.690 for each calendar year.

3. All workers' compensation insurers shall be notified by the division of workers' compensation within ten days of the determination of the administrative surcharge percentage to be imposed for, and paid in, the following calendar year.

287.717. SURCHARGE COLLECTION, PROCEDURE — FAILURE TO PAY, INTEREST ASSESSED, WHEN. — 1. Beginning January 1, 2004, the administrative surcharge established pursuant to section 287.716, shall be collected from deductible plan policyholders by each insurer at the same time and in the same manner that the premium is collected, but no insurer or its agent shall be entitled to any portion of the administrative surcharge as a fee or commission for its collection. The administrative surcharge is not subject to any taxes, licenses, or fees.

2. All administrative surcharges imposed pursuant to section 287.716 shall be paid to the Missouri director of revenue and shall be deposited to the workers' compensation administrative fund.

3. The amount of the administrative surcharge due for the current calendar year shall be paid in four approximately equal estimated quarterly installments, and a fifth reconciling installment. The first four installments shall be based upon the amount of administrative surcharge payable in the calendar year for which the surcharge is imposed. The quarterly installments shall be made on the first day of March, the first day of June, the first day of September, and the first day of December. On or before the first day of March of each year, every such insurer shall submit a report, verified by the affidavit of its president and secretary or other chief officers or agents, to the director of the department of insurance, stating the amount of all such total premiums which would have been paid for the deductible portion.

4. If after the end of any calendar year, the amount of the actual administrative surcharge due is less than the total amount of the installments actually paid, the amount by which the amount paid exceeds the amount due shall only be credited against the administrative surcharge for the following year and deducted from the quarterly installment due on June first and any other payments required by this section until the credit is exhausted. In the event no such payments are due and upon application of the insurer, the director of revenue may refund the amount of credit if no other obligation is owed to the state.

5. If a deductible plan policyholder fails to make payment of the administrative surcharge, or an insurer fails to make timely transfer to the director of revenue of administrative surcharges actually collected from deductible plan policyholders, as required by this section, a late charge of one-half of one percent of the administrative surcharge unpaid, or transferred, shall be assessed against the liable deductible plan policyholder or insurer. Late charges assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding brought by the director of the division of workers' compensation.

6. If the administrative surcharges imposed by this section are not paid when due, the deductible plan policyholder or insurer shall be required to pay, as part of such administrative surcharge, interest thereon at the rate of one and one-half percent per month for each month or fraction thereof delinquent. In the event the state prevails in any dispute concerning an assessment of the administrative surcharge, which has not been paid by the policyholder or insurer, interest shall be paid upon the amount found due to the state at the rate of one and one-half percent per month for each month or fraction thereof delinquent.

7. The division may authorize electronic transfer of all forms, reports, payments, and other information deemed appropriate by the division as required pursuant to this section and sections 287.690, 287.710, 287.715, and 287.716. Information filed pursuant to this section and sections 287.690, 287.710, 287.715, and 287.716 and under any rules promulgated by the division pursuant to this section and sections 287.690, 287.710, 287.715, and 287.716 shall be confidential and not subject to chapter 610, RSMo.

8. This section shall not apply to any employer or group of employers authorized by the division to self-insure their liability pursuant to this chapter.

Approved July 11, 2003

SB 388 [SB 388]

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

Increases the amount borrowers can be guaranteed from the single purpose animal facilities loan guarantee fund.

AN ACT to repeal sections 348.195 and 348.210, RSMo, and to enact in lieu thereof two new sections relating to loan guarantees.

SECTION

A. Enacting clause.
348.195. Certificate of guaranty may be issued, conditions — eligible lender, defined — participation fee, amount — limitation of amount.
348.210. Eligibility for guarantees for loans — rules — terms, conditions.

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

SECTION A. ENACTING CLAUSE. — Sections 348.195 and 348.210, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 348.195 and 348.210, to read as follows:

348.195. CERTIFICATE OF GUARANTY MAY BE ISSUED, CONDITIONS — ELIGIBLE LENDER, DEFINED — PARTICIPATION FEE, AMOUNT — LIMITATION OF AMOUNT. — 1. The authority may issue certificates of guaranty covering a first loss guarantee up to but not more than **[**twenty-five**]** **fifty** percent of the loan on a declining principal basis for loans to individuals executing a note or other evidence of a loan made for livestock production or other single-purpose animal facility, including animal waste systems or livestock purchase, but not to exceed the amount of two hundred fifty thousand dollars for any one individual and to pay from the single-purpose animal facilities loan guarantee fund to an eligible lender up to **[**twenty-five**]** **fifty** percent of the amount on a declining principal basis of any loss on any guaranteed loan made under the provisions of sections 348.185 to 348.225, in the event of default on the loan. Upon payment of the loan, the authority shall be subrogated to all the rights of the eligible lender.

2. As used in sections 348.185 to 348.225, the term "eligible lender" means those entities defined as "lenders" under subdivision (8) of section 348.015.

3. The authority shall charge for each guaranteed loan a one-time participation fee of one percent which shall be collected by the lender at the time of closing and paid to the authority. In addition, the authority may charge a special loan guarantee fee of up to one percent per annum of the outstanding principal which shall be collected from the borrower by the lender and paid to the authority. Amounts so collected shall be deposited in the single-purpose animal facilities loan program fund and used, upon appropriation, to pay the costs of administering the program.

4. All moneys paid to satisfy a defaulted guaranteed loan shall only be paid out of the single-purpose animal facilities loan guarantee fund established by sections 348.185 to 348.225.

5. The total outstanding guaranteed loans shall at no time exceed an amount which, according to sound actuarial judgment, would allow immediate redemption of **[**forty**]** **twenty** percent of the outstanding loans guaranteed by the fund at any one time.

348.210. ELIGIBILITY FOR GUARANTEES FOR LOANS — RULES — TERMS, CONDITIONS. — 1. Persons eligible for guarantees for loans under the provisions of sections 348.185 to 348.225 are individuals engaged in farming operations as defined in section 348.015, who intend to use the proceeds from the loan to finance breeding or feeder livestock, including the purchase of additional or replacement livestock, land, buildings, facilities, equipment, machinery, and

animal waste facilities used to produce poultry, hogs, beef, or dairy cattle, or other animals and who are seeking a loan or loans to finance not more than ninety percent of the anticipated cost.

2. The authority shall adopt and promulgate regulations establishing eligibility under the provisions of sections 348.185 to 348.225, taking into consideration the individual's ability to repay the loan, the general economic conditions of the area in which the individual will be located, the prospect of success of the particular facility for which the loan is sought and such other factors as the authority may establish. The eligibility of any person for a loan guarantee under the provisions of sections 348.185 to 348.225 shall not be determined or otherwise affected by any consideration of that person's race, religion, sex, creed, color, or location of residence. The authority may also provide for:

(1) The requirement or nonrequirement of security or endorsement and the nature thereof;

(2) The manner and time of repayment of the principal and interest;

(3) The maximum rate of interest;

(4) The right of the borrower to accelerate payments without penalty;

(5) The amount of the guaranty charge;

(6) The effective period of the guaranty;

(7) The percent of the loan, not to exceed **[**twenty-five**]** **fifty** percent, covered by the guaranty;

(8) The assignability of loans by the lender;

(9) Procedures in event of default by the borrower;

(10) The due diligence effort on the part of lenders for collection of guaranteed loans;

(11) Collection assistance to be provided to lenders; and

(12) The extension of the guaranty in consideration of duty in the armed forces, unemployment, natural disasters, or other hardships.

Approved July 11, 2003

SB 394 [CCS HCS SB 394]

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

Modifies law governing corporate formalities.

AN ACT to repeal sections 347.700, 347.720, 351.046, 351.182, 351.268, 351.315, 351.320, 351.385, 351.455, 358.150, 358.520 and 359.165, RSMo, and to enact in lieu thereof twelve new sections relating to general and business corporations.

SECTION

A. Enacting clause.
347.700. Law to apply, merger or consolidation.
347.720. Agreement of merger or consolidation — authorization and approval — certification — abandonment, procedure.
351.046. Filing requirements.
351.182. Stock warrants, options — terms — consideration.
351.268. Shareholder's meeting, adjournment due to lack of quorum — postponement, adjournment defined.
351.315. Number of directors, how elected, how removed.
351.320. Board vacancy, how filled.
351.385. Powers of corporation.
351.455. Shareholder who objects to merger may demand value of shares, when — remedy exclusive, when.
358.150. Nature of partner's liability.
358.520. Merger or consolidation of a domestic general partnership, authorization.

359.165. Merger of domestic limited partnership — filing required, effective date — articles of merger or consolidation required, when, contents, secretary of state agent for service of process — effect of merger.

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

SECTION A. ENACTING CLAUSE. — Sections 347.700, 347.720, 351.046, 351.182, 351.268, 351.315, 351.320, 351.385, 351.455, 358.150, 358.520 and 359.165, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 347.700, 347.720, 351.046, 351.182, 351.268, 351.315, 351.320, 351.385, 351.455, 358.150, 358.520, and 359.165, to read as follows:

347.700. LAW TO APPLY, MERGER OR CONSOLIDATION. — 1. A merger or consolidation solely between any two or more domestic corporations or one or more domestic corporations and one or more foreign corporations shall be governed by and subject to chapter 351 or 355, RSMo, as is applicable.

2. A merger or consolidation solely between any two or more domestic general partnerships or one or more domestic general partnerships and one or more foreign general partnerships shall be governed by and subject to section 358.520, RSMo.

[2.**]** **3.** A merger or consolidation solely between any two or more domestic limited partnerships or one or more domestic limited partnerships and one or more foreign limited partnerships shall be governed by and subject to section 359.165, RSMo.

[3.**]** **4.** A merger or consolidation solely between any two or more domestic limited liability companies or one or more domestic limited liability companies and one or more foreign limited liability companies shall be governed by sections 347.127 to 347.133.

[4.**]** **5.** A business combination involving any resident domestic corporation and any interested shareholder of such resident domestic corporation shall be governed by and subject to section 351.459, RSMo.

[5.**]** **6.** Subject to the provisions of this section, any merger or consolidation between one or more domestic corporations and any one or more constituent entities at least one of which is not a corporation, one or more domestic general partnerships and any one or more constituent entities at least one of which is not a general partnership, one or more domestic limited partnerships and any one or more constituent entities at least one of which is not a limited partnership, one or more domestic limited liability partnerships and any one or more constituent entities at least one of which is not a limited liability partnership, one or more domestic limited liability limited partnerships and any one or more constituent entities at least one of which is not a limited liability limited partnership, or one or more domestic limited liability companies and any one or more constituent entities at least one of which is not a limited liability company shall be governed by and subject to the provisions of sections 347.700 to 347.735.

347.720. AGREEMENT OF MERGER OR CONSOLIDATION — AUTHORIZATION AND APPROVAL — CERTIFICATION — ABANDONMENT, PROCEDURE. — 1. The agreement of merger or consolidation required by section 347.715 shall be authorized and approved in the following manner:

(1) A constituent entity that is a domestic general partnership shall have the agreement of merger or consolidation authorized and approved by all of the partners, unless otherwise provided in the articles or agreement of partnership;

(2) A constituent **[**estate**]** **entity** that is a domestic **limited** partnership shall have the agreement of merger or consolidation approved by all general partners and by all of the limited partners unless otherwise provided in the articles or agreement of limited partnership;

(3) A constituent **[**estate**]** **entity** that is a domestic corporation shall have the agreement of merger or consolidation approved in the manner applicable to a merger of two or more domestic corporations as provided in chapter 351 or 355, RSMo, as is applicable;

(4) A constituent entity that is a domestic limited liability company shall have the agreement of merger or consolidation approved in the manner provided in section 347.079; and

(5) Each constituent entity formed under the laws of a jurisdiction other than this state shall have the agreement of merger or consolidation approved in accordance with the laws of such other jurisdiction.

2. The fact that the agreement of merger or consolidation has been authorized and approved in accordance with this section shall be certified on the agreement of merger or consolidation on behalf of each constituent entity:

(1) In the case of any domestic general or limited partnership, by any general partner;

(2) In the case of any domestic corporation, by its president or a vice president, and by its secretary or an assistant secretary;

(3) In the case of any domestic limited liability company, by any authorized person as defined in section 347.015; and

(4) In the case of any constituent entity formed under the laws of any jurisdiction other than this state, in accordance with the laws of such other jurisdiction.

3. After the agreement of merger or consolidation is authorized and approved, unless the agreement of merger or consolidation provides otherwise, and at any time before the agreement of merger or consolidation or certificate of merger or consolidation is effective as provided for in section 347.725, the agreement of merger or consolidation may be abandoned, subject to any contractual rights, in accordance with the procedure set forth in the agreement of merger or consolidation or, if none is set forth, with the approval of those persons or individuals entitled to approve the merger or consolidation as provided in subsection 1 of this section.

351.046. FILING REQUIREMENTS. — 1. A document shall satisfy the requirements of this section, and of any other section that adds to or varies from these requirements, to be entitled to filing by the secretary of state.

2. This chapter shall require or permit filing the document in the office of the secretary of state.

3. The document shall contain the information required by this chapter. It may contain other information as well.

4. The document shall be typewritten or printed.

5. The document shall be in the English language.

A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. The document shall be executed:

(1) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by the incorporator(s); or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

7. The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may contain the corporate seal, an attestation by the secretary or an assistant secretary, an acknowledgment, verification or proof.

8. If the secretary of state has prescribed a mandatory form for the document under the provisions of section 351.047, the document shall be in or on the prescribed form.

9. The document shall be delivered to the office of the secretary of state for filing and must be accompanied by one exact or conformed copy, except as provided in sections 351.376 and 351.592, the correct filing fee, and any franchise tax, license fee, or penalty required by this chapter or other law.

10. Any signature on any document authorized to be filed by or with the secretary of state pursuant to this chapter may be a facsimile, a conformed signature or an electronically transmitted signature.

351.182. STOCK WARRANTS, OPTIONS — TERMS — CONSIDERATION. — 1. Subject to any provisions in the articles of incorporation, every corporation may create and issue, whether or not in connection with the issue and sale of any shares of stock or other securities of the corporation, rights or options entitling the holders thereof to purchase from the corporation any shares of its capital stock of any class or classes, such rights or options to be evidenced by or in such instrument or instruments as is approved by the board of directors. If at the time the corporation issues rights or options, there is insufficient authorized and unissued shares to provide the shares needed if and when the rights or options are exercised, the granting of the rights or options shall not be invalid solely by reason of the lack of sufficient authorized but unissued shares.

2. The terms upon which any such shares may be purchased from the corporation upon the exercise of any such right or option, shall be as stated in the articles of incorporation, or in a resolution adopted by the board of directors providing for the creation and issue of such rights or options, and, in every case, shall be set forth or incorporated by reference in the instrument or instruments evidencing such rights or options. Such terms may include, but not be limited to:

(1) The duration of such rights or options, which may be limited or unlimited;

(2) The price or prices at which any such shares may be purchased from the corporation upon the exercise of any such right or option;

(3) The holders by whom such rights or options may be exercised;

(4) The conditions to or which may preclude or limit the exercise, transfer or receipt of such rights or options, or which may invalidate or void such rights or options, including without limitation conditions based upon a specified number or percentage of outstanding shares, rights, options, convertible securities, or obligations of the corporation as to which any person or persons or their transferees own or offer to acquire; and

(5) The conditions upon which such rights or options may be redeemed. Such terms may be made dependent upon facts ascertainable outside the documents evidencing the rights, or the resolution providing for the issue of the rights or options adopted by the board of directors, if the manner in which the facts shall operate upon the exercise of the rights or options is clearly and expressly set forth in the document evidencing the rights or options, or in the resolution. In the absence of actual fraud in the transaction, the judgment of the directors as to the consideration for the issuance of such rights or options and the sufficiency thereof and the terms of such rights or options shall be conclusive. In case the shares of stock of the corporation to be issued upon the exercise of such rights or options shall be shares having a par value, the price or prices so to be received therefor shall not be less than the par value thereof. In case the shares of stock so to be issued shall be shares of stock without par value, the consideration therefor shall be determined in the manner provided in section 351.185. Nothing contained in subsection 1 of section 351.180 shall be deemed to limit the authority of the board of directors to determine, in its sole discretion, the terms of the rights or options issuable pursuant to this section.

3. The board of directors may, by a resolution adopted by the board, authorize one or more officers of the corporation to do one or both of the following:

(1) Designate officers and employees of the corporation or of any of its subsidiaries to be recipients of such rights or options created by the corporation;

(2) Determine the number of such rights or options to be received by such officers and employees; provided, however, that the resolution so authorizing such officer or officers shall specify the total number of rights or options such officer or officers may so award. The board of directors may not authorize an officer to designate himself or herself as a recipient of any such rights or options.

351.268. SHAREHOLDER'S MEETING, ADJOURNMENT DUE TO LACK OF QUORUM — POSTPONEMENT, ADJOURNMENT DEFINED. — 1. In addition to the provisions of sections 351.265 and 351.267 regarding the adjournment of shareholders meetings at which a quorum is not present, unless the bylaws provide to the contrary, a meeting may be otherwise successively adjourned to a specified date not longer than ninety days after such adjournment or to another place. Notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than ninety days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the date and place of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

2. A shareholder's meeting may be successively postponed by resolution of the board of directors, unless otherwise provided in the bylaws, to a specified date up to a date ninety days after such postponement or to another place, provided notice of the date and place of the postponed meeting, which may be by public notice, is given to each shareholder of record entitled to vote at the meeting **[**prior to the date previously scheduled for such meeting**]**.

3. For purposes of this chapter, "adjournment" means a delay in the date, which may also be combined with a change in the place, of a meeting after the meeting has been convened; "postponement" means a delay in the date, which may be combined with a change in the place, of the meeting before it has been convened, but after the time and place thereof have been set forth in a notice delivered or given to shareholders; and public notice shall be deemed to have been given if a public announcement is made by press release reported by a national news service or in a publicly available document filed with the United States Securities and Exchange Commission.

351.315. NUMBER OF DIRECTORS, HOW ELECTED, HOW REMOVED. — 1. A corporation shall have three or more directors, except that a corporation may have one or two directors provided the number of directors to constitute the board of directors is stated in the articles of incorporation. Any corporation may elect its directors for one or more years, not to exceed three years, the time of service and mode of classification to be provided for by the articles of incorporation or the bylaws of the corporation; but, there shall be an annual election for such number or proportion of directors as may be found upon dividing the entire number of directors by the number of years composing a term. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders entitled to vote shall elect directors to hold office until the next succeeding annual meeting, except as herein provided. Each director shall hold office for the term for which he is elected or until his successor shall have been elected and qualified.

2. **The articles of incorporation may confer upon holders of any class or series of stock the right to elect one or more directors who shall serve for such term and shall have such voting powers as shall be stated in the articles of incorporation. The terms of office and voting powers of the directors elected in the manner so provided in the articles of incorporation may be greater than or less than those of any other director or class of directors. If the articles of incorporation provide that directors elected by the holders of a class or series of stock shall have more or less than one vote per director on any matter, every reference in this chapter to a majority or other proportion of directors shall refer to a majority or other proportion of the votes such directors are entitled to cast.**

3. At a meeting called expressly for that purpose, directors may be removed in the manner provided in this section. Such meeting shall be held at the registered office or principal business office of the corporation in this state or in the city or county in this state in which the principal business office of the corporation is located. Unless the articles of incorporation or the bylaws provide otherwise, one or more directors or the entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an

election of directors. If the articles of incorporation or bylaws provide for cumulative voting in the election of directors, if less than the entire board is to be removed, no one of the directors may be removed if the votes cast against **[**his**]** **such director's** removal would be sufficient to elect **[**him**]** **such director** if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which **[**he**]** **such director** is a part. Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect of the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

[3.**]** **4.** The corporation shall give written notice to the secretary of state of the number of directors of the corporation as fixed by any method. The notice shall be given within thirty days of the date when the number of directors is fixed, and similar notice shall be given whenever the number of directors is changed.

351.320. BOARD VACANCY, HOW FILLED. — **1.** Unless otherwise provided in the articles of incorporation or bylaws of the corporation, vacancies on the board and newly created directorships resulting from any increase in the number of directors to constitute the board of directors may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, until the next election of directors by the shareholders of the corporation; except that, if shareholders elect directors by class pursuant to section 351.315, a director elected by the board pursuant to this section to fill a vacancy or to a newly created directorship need not be presented for election by shareholders until the class to which the director has been so elected by the board is presented for election by the shareholders.

2. Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the articles of incorporation, vacancies and newly created directorships with respect to such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office.

351.385. POWERS OF CORPORATION. — Each corporation shall have power:

(1) To have succession by its corporate name for the period limited in its articles of incorporation or perpetually where there is no such limitations;

(2) To sue and be sued, complain and defend in any court of law or equity;

(3) To have a corporate seal which may be altered at pleasure and to use the same by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced;

(4) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in, sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its real or personal property, or any interest therein, or other assets, wherever situated; and to hold for any period of time, real estate acquired in payment of a debt, by foreclosure or otherwise, or real estate exchanged therefor;

(5) To be a general or limited partner;

(6) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof;

(7) To make contracts and guarantees, including but not limited to guarantees of the capital stock, bonds, other securities, evidences of indebtedness and other debts and obligations issued by any other corporation of this or any other state, or issued by any state or **[**other**]** **any** political subdivision thereof; to incur liabilities; to borrow money at such rates of interest as the corporation may determine without regard to the restrictions of any usury law of this state; to

issue its notes, bonds, and other obligations; to issue notes or bonds, secured or unsecured, which by their terms are convertible into shares of stock of any class, upon such terms and conditions and at such rates or prices as may be provided in such notes or bonds and the indenture or mortgage under which they are issued; and to secure any of its obligations by mortgage, pledge, or deed of trust of all or any of its property, franchises, and income;

(8) To invest its surplus funds from time to time and to lend money and to take and hold real and personal property as security for the payment of funds so invested or loaned;

(9) To conduct its business, carry on its operations, and have offices within and without this state, and to exercise in any other state, territory, district, or possession of the United States, or in any foreign country, the powers granted by this chapter;

(10) To elect or appoint directors, officers and agents of the corporation, define their duties and fix their compensation, and to indemnify directors, officers and employees to the extent and in the manner permitted by law;

(11) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation, and to adopt emergency bylaws and exercise emergency powers as permitted by law;

(12) To transact any lawful business in aid of the United States in the prosecution of war, to make donations to associations and organizations aiding in war activities, and to lend money to the state or federal government for war purposes;

(13) To cease its corporate activities and surrender its corporate franchise;

(14) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is formed;

(15) To make contributions to any corporation organized for civic, charitable, benevolent, scientific or educational purposes, or to any incorporated or unincorporated association, community chest or community fund, not operated or used for profit to its members but operated for the purposes of raising funds for and of distributing funds to other civic, charitable, benevolent, scientific or educational organizations or agencies**;**

(16) To renounce, in its articles of incorporation or by action of its board of directors, any interest or expectancy of the corporation in, or in being offered an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation, or one or more of its officers, directors, employees, agents, or stockholders.

351.455. SHAREHOLDER WHO OBJECTS TO MERGER MAY DEMAND VALUE OF SHARES, WHEN — REMEDY EXCLUSIVE, WHEN. — 1. If a shareholder of a corporation which is a party to a merger or consolidation **[**shall file with such corporation, prior to or**]** **and, in the case of a shareholder owning voting stock as of the record date,** at the meeting of shareholders at which the plan of merger or consolidation is submitted to a vote**[,] shall file with such corporation prior to or at such meeting** a written objection to such plan of merger or consolidation, and shall not vote in favor thereof, and such shareholder, within twenty days after the merger or consolidation is effected, shall make written demand on the surviving or new corporation for payment of the fair value of his **or her** shares as of the day prior to the date on which the vote was taken approving the merger or consolidation, the surviving or new corporation shall pay to such shareholder, upon surrender of his **or her** certificate or certificates representing said shares, the fair value thereof. Such demand shall state the number and class of the shares owned by such dissenting shareholder. Any shareholder failing to make demand within the twenty day period shall be conclusively presumed to have consented to the merger or consolidation and shall be bound by the terms thereof.

2. If within thirty days after the date on which such merger or consolidation was effected the value of such shares is agreed upon between the dissenting shareholder and the surviving or new corporation, payment therefor shall be made within ninety days after the date on which such merger or consolidation was effected, upon the surrender of his **or her** certificate or certificates

representing said shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares or in the corporation.

3. If within such period of thirty days the shareholder and the surviving or new corporation do not so agree, then the dissenting shareholder may, within sixty days after the expiration of the thirty day period, file a petition in any court of competent jurisdiction within the county in which the registered office of the surviving or new corporation is situated, asking for a finding and determination of the fair value of such shares, and shall be entitled to judgment against the surviving or new corporation for the amount of such fair value as of the day prior to the date on which such vote was taken approving such merger or consolidation, together with interest thereon to the date of such judgment. The judgment shall be payable only upon and simultaneously with the surrender to the surviving or new corporation of the certificate or certificates representing said shares. Upon the payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares, or in the surviving or new corporation. Such shares may be held and disposed of by the surviving or new corporation as it may see fit. Unless the dissenting shareholder shall file such petition within the time herein limited, such shareholder and all persons claiming under **[**him**]** **such shareholder** shall be conclusively presumed to have approved and ratified the merger or consolidation, and shall be bound by the terms thereof.

4. The right of a dissenting shareholder to be paid the fair value of **[**his**]** **such shareholder's** shares as herein provided shall cease if and when the corporation shall abandon the merger or consolidation.

5. When the remedy provided for in this section is available with respect to a transaction, such remedy shall be the exclusive remedy of the shareholder as to that transaction, except in the case of fraud or lack of authorization for the transaction.

358.150. NATURE OF PARTNER'S LIABILITY. — 1. Except as provided in subsection 2 of this section, all partners are liable jointly and severally for everything chargeable to the partnership pursuant to sections 358.130 and 358.140, and for all other debts and obligations of the partnership. Any partner may enter into a separate obligation to perform a partnership contract.

2. Subject to subsection 3 of this section, no partner in a registered limited liability partnership shall be liable or accountable, directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for any debts, obligations and liabilities of, or chargeable to, the partnership or each other, whether in tort, contract or otherwise, which are incurred, created or assumed by such partnership while the partnership is a registered limited liability partnership.

3. Subsection 2 of this section shall not affect the liability of a partner in a registered limited liability partnership for the partner's own negligence, wrongful acts, omissions, misconduct or malpractice **[**or that of any person under the partner's direct supervision and control**]** or the partner's liability for any taxes or fees administered by the department of revenue pursuant to chapter 143, 144 or 301, RSMo, and any liabilities owed as determined by the division of employment security, pursuant to chapter 288, RSMo, and any local taxes provided for in section 32.087, RSMo.

4. A partner is not a proper party to a proceeding by or against a registered limited liability partnership, the object of which is to recover damages or enforce obligations arising out of acts, omissions, malpractice or misconduct of the type described in subsection 2 of this section, unless the partner is personally liable pursuant to subsection 1 or 3 of this section.

5. A registered limited liability partnership may sue and be sued in its own name.

6. Venue of claims against registered limited liability partnerships shall be controlled pursuant to section 508.010, RSMo, and, for purposes of venue, a registered limited liability partnership shall be deemed to be a citizen and resident of the county in which it has any office

or agent for the transaction of its usual and customary business activities or in which its registered office or registered agent is located.

7. Service of process upon a registered limited liability partnership may be had by delivering a copy of the summons and petition to the partnership's registered agent, a partner, managing or general agent or by leaving the copies at any business office of the registered limited liability partnership with the person having charge thereof.

358.520. MERGER OR CONSOLIDATION OF A DOMESTIC GENERAL PARTNERSHIP, AUTHORIZATION. — 1. Pursuant to an agreement of merger or consolidation, a domestic general partnership may merge or consolidate with or into one or more general partnerships formed under the laws of this state or any other jurisdiction, with such general partnership as the agreement shall provide being the surviving or resulting general partnership. A domestic **general** partnership may merge or consolidate with **[**or into**]** one or more **domestic or foreign limited [**general**]** partnerships **[**or domestic or foreign limited partnerships, limited liability companies, trusts, business trusts, corporations, real estate investment trusts and other associations or business entities**], limited liability companies, trusts, business trusts, corporations, real estate investment trusts and other associations or business entities at least one of which is not a general partnership,** as provided in sections 347.700 to 347.735, RSMo.

2. The agreement of merger or consolidation shall be approved by the number or percentage of partners specified in the partnership agreement. If the partnership agreement fails to specify the required partner approval for merger or consolidation of the general partnership, then the agreement of merger or consolidation shall be approved by that number or percentage of partners specified by the partnership agreement to approve an amendment to the partnership agreement. However, if the merger effects a change for which the partnership agreement requires a greater number or percentage of partners than that required to amend the partnership agreement, then the merger or consolidation shall be approved by that greater number or percentage. If the partnership agreement contains no provision specifying the vote required to amend the partnership agreement, then the agreement of merger must be approved by all the partners.

3. In the case of a merger or consolidation of one or more domestic partnerships into a surviving partnership, the surviving partnership shall file articles of merger or consolidation with the secretary of state setting forth:

(1) The name of each party to the merger or consolidation;

(2) The effective date of the merger or consolidation which shall be the date the articles of merger or consolidation are filed with the secretary of state or on a later date set forth in the articles of merger or consolidation not to exceed ninety days after the filing date;

(3) The name of the surviving partnership in a merger or the new partnership in a consolidation and the state of its formation;

(4) A statement that the merger or consolidation was authorized and approved by the partners of each party to the merger or consolidation in accordance with the laws of the jurisdiction where it was organized;

(5) If applicable, the address of the registered office and the name of the registered agent at such office for the surviving or new partnership;

(6) A statement that the executed agreement of merger or consolidation is on file at the principal place of business of the surviving or new partnership, stating the address of such place of business; and

(7) A statement that a copy of the agreement of merger or consolidation will be furnished by the surviving or new partnership, on request and without cost, to any partner of any entity that is a party to the merger or consolidation.

4. The certificate of merger or consolidation shall be executed by at least one general partner of each domestic partnership and one authorized agent, or its equivalent, for the other party to the merger or consolidation who is duly authorized to execute such notice.

5. If, following a merger or consolidation of one or more domestic partnerships and one or more partnerships formed under the laws of any state, the surviving or resulting partnership is not a domestic partnership, there shall be attached to the articles of merger or consolidation filed pursuant to subsection 3 of this section a certificate executed by the surviving or resulting partnership, stating that such surviving or resulting partnership may be served with process in this state in any action, suit or proceeding for the enforcement of any obligation of such domestic partnership, irrevocably appointing the secretary of state as such surviving or resulting partnership's agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to such surviving or resulting partnership to the secretary of state.

6. When the articles of merger or consolidation required by subsection 3 of this section shall have become effective, for all purposes of the laws of this state, all the rights, privileges, franchises and powers of each of the partnerships that have merged or consolidated, and all property, real, personal, and mixed, and all debts due to any of such partnerships, as well as all other things and causes of action belonging to each of such partnerships shall be vested in the surviving or resulting partnership, and shall thereafter be the property of the surviving or resulting partnership as they were of each of the partnerships that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of this state, in any such partnerships, shall not revert or be in any way impaired by reason of this section; but all rights of creditors and all liens upon any property of any such partnerships shall be preserved unimpaired, and all debts, liabilities and duties of each of the partnerships that have merged or consolidated shall thenceforth attach to the surviving or resulting partnership, and may be enforced against such surviving or resulting partnership to the same extent as if such debts, liabilities, and duties had been incurred or contracted by such surviving or resulting partnership.

359.165. MERGER OF DOMESTIC LIMITED PARTNERSHIP — FILING REQUIRED, EFFECTIVE DATE — ARTICLES OF MERGER OR CONSOLIDATION REQUIRED, WHEN, CONTENTS, SECRETARY OF STATE AGENT FOR SERVICE OF PROCESS — EFFECT OF MERGER. — 1. Pursuant to an agreement of merger or consolidation, a domestic limited partnership may merge or consolidate with or into one or more limited partnerships formed under the laws of this state or any other jurisdiction, with such limited partnership as the agreement shall provide being the surviving or resulting limited partnership. A domestic limited partnership may merge or consolidate with one or more domestic or foreign general partnerships, limited liability companies, trusts, business trusts, corporations, real estate investment trusts and other associations or business entities at least one of which is not a limited partnership, as provided in sections 347.700 to 347.735, RSMo.

2. The agreement of merger or consolidation shall be approved by the number or percentage of general and limited partners specified in the partnership agreement. If the partnership agreement fails to specify the required partner approval for merger or consolidation of the limited partnership, then the agreement of merger or consolidation shall be approved by that number or percentage of general and limited partners specified by the partnership agreement to approve an amendment to the partnership agreement. However, if the merger effects a change for which the partnership agreement requires a greater number or percentage of general and limited partners than that required to amend the partnership agreement, then the merger or consolidation shall be approved by that greater number or percentage. If the partnership agreement contains no provision

specifying the vote required to amend the partnership agreement, then the agreement of merger must be approved by all the general and limited partners.

[2.**]** **3.** In the case of a merger or consolidation of one or more domestic limited partnerships into a surviving limited partnership, the surviving limited partnership shall file articles of merger or consolidation with the secretary of state setting forth:

(1) The name of each party to the merger or consolidation;

(2) The effective date of the merger or consolidation which shall be the date the articles of merger or consolidation are filed with the secretary or on a later date set forth in the articles of merger or consolidation not to exceed ninety days after the filing date;

(3) The name of the surviving limited partnership in a merger or the new limited partnership in a consolidation and the state of its formation;

(4) A statement that the merger or consolidation was authorized and approved by the partners of each party to the merger or consolidation in accordance with the laws of the jurisdiction where it was organized;

(5) If applicable, the address of the registered office and the name of the registered agent at such office for the surviving or new limited partnership;

(6) In the case of a merger in which a domestic limited partnership is the surviving entity, such amendments or changes to the certificate of limited partnership of the surviving limited partnership as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the certificate of limited partnership of the surviving limited partnership shall not be amended or changed as a result of the merger;

(7) In the case of a consolidation in which a domestic limited partnership is the continuing limited partnership, the certificate of limited partnership of the new domestic limited partnership shall be set forth in an attachment to the certificate of consolidation;

(8) A statement that the executed agreement of merger or consolidation is on file at the principal place of business of the surviving or new limited partnership, stating the address of such place of business; and

(9) A statement that a copy of the agreement of merger or consolidation will be furnished by the surviving or new limited partnership, on request and without cost, to any partner of any entity that is a party to the merger or consolidation.

[3.**]** **4.** The certificate of merger or consolidation shall be executed by at least one general partner of each domestic limited partnership and one authorized agent, or its equivalent, for the other party to the merger or consolidation who is duly authorized to execute such notice.

[4.**]** **5.** In the case of a merger of one or more domestic limited partnerships into a surviving limited partnership, the certificate of limited partnership of the surviving domestic limited partnership shall be amended to the extent provided in the articles of merger and the certificates of limited partnership of each other domestic limited partnership shall be deemed canceled by the filing of the articles of merger with the secretary of state.

[5.**]** **6.** If, following a merger or consolidation of one or more domestic limited partnerships and one or more limited partnerships formed under the laws of any state, the surviving or resulting limited partnership is not a domestic limited partnership, there shall be attached to the articles of merger or consolidation filed pursuant to subsection **[**2**]** **3** of this section a certificate executed by the surviving or resulting limited partnership, stating that such surviving or resulting limited partnership may be served with process in this state in any action, suit or proceeding for the enforcement of any obligation of such domestic limited partnership, irrevocably appointing the secretary of state as such surviving or resulting limited partnership's agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to such surviving or resulting limited partnership to the secretary of state.

[6.**]** **7.** When the articles of merger or consolidation required by subsection **[**2**]** **3** of this section shall have become effective, for all purposes of the laws of this state, all of the rights, privileges, franchises and powers of each of the limited partnerships that have merged or

consolidated, and all property, real, personal and mixed, and all debts due to any of such limited partnerships, as well as all other things and causes of action belonging to each of such limited partnerships shall be vested in the surviving or resulting limited partnership, and shall thereafter be the property of the surviving or resulting limited partnership as they were of each of the limited partnerships that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of this state, in any such limited partnerships, shall not revert or be in any way impaired by reason of this section; but all rights of creditors and all liens upon any property of any of such limited partnerships shall be preserved unimpaired, and all debts, liabilities and duties of each of the limited partnerships that have merged or consolidated shall thenceforth attach to the surviving or resulting limited partnership, and may be enforced against such surviving or resulting limited partnership to the same extent as if such debts, liabilities and duties had been incurred or contracted by such surviving or resulting limited partnership.

Approved July 3, 2003

SB 399 [HCS SB 399]

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 crime of delivering any controlled substances to prisons, city & county jails, and private prisons & jails.

AN ACT to repeal section 217.360, RSMo, and to enact in lieu thereof one new section relating to delivery or concealment of controlled substances in city or county jails, with penalty provisions.

SECTION

A. Enacting clause.
217.360. Delivery or concealment of controlled substances, liquor or prohibited articles on premises of any correctional center or city, county or private jail, penalties — expungement of records for certain violations, procedure.

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

SECTION A. ENACTING CLAUSE. — Section 217.360, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.360, to read as follows:

217.360. DELIVERY OR CONCEALMENT OF CONTROLLED SUBSTANCES, LIQUOR OR PROHIBITED ARTICLES ON PREMISES OF ANY CORRECTIONAL CENTER OR CITY, COUNTY OR PRIVATE JAIL, PENALTIES — EXPUNGEMENT OF RECORDS FOR CERTAIN VIOLATIONS, PROCEDURE. — 1. It shall be an offense for any person to knowingly deliver, attempt to deliver, have in his possession, deposit or conceal in or about the premises of any correctional center**, or city or county jail, or private prison or jail**:

(1) Any controlled substance as that term is defined by law, except upon the written prescription of a licensed physician, dentist, or veterinarian;

(2) Any other alkaloid of any controlled substance, any spirituous or malt liquor, or any intoxicating liquor as defined in section 311.020, RSMo;

(3) Any article or item of personal property which an offender is prohibited by law or by rule and regulation of the division from receiving or possessing;

(4) Any gun, knife, weapon, or other article or item of personal property that may be used in such manner as to endanger the safety or security of the correctional center**, or city or county jail, or private prison or jail** or as to endanger the life or limb of any offender or employee of such a center.

2. The violation of subdivision (1) of subsection 1 of this section shall be a class C felony; the violation of subdivision (2) of subsection 1 of this section shall be a class D felony; the violation of subdivision (3) of subsection 1 of this section shall be a class A misdemeanor; and the violation of subdivision (4) of subsection 1 of this section shall be a class B felony.

3. Any person who has been found guilty of or has pled guilty to a violation of subdivision (2) of subsection 1 of this section involving any alkaloid shall be entitled to expungement of the record of the violation. The procedure to expunge the record shall be pursuant to section 610.123, RSMo. The record of any person shall not be expunged if such person has been found guilty of or has pled guilty to knowingly delivering, attempting to deliver, having in his possession, or depositing or concealing any alkaloid of any controlled substance in or about the premises of any correctional center**, or city or county jail, or private prison or jail**.

Approved July 11, 2003

SB 407 [CCS HCS SB 407]

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

Modifies the requirements for health insurance coverage of clinical trials.

AN ACT to repeal section 376.429, RSMo, and to enact in lieu thereof one new section relating to health insurance coverage for cancer.

SECTION

A. Enacting clause.
376.429. Coverage for certain clinical trials for prevention, early detection and treatment of cancer, restrictions — definitions — exclusions.

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

SECTION A. ENACTING CLAUSE. — Section 376.429, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.429, to read as follows:

376.429. COVERAGE FOR CERTAIN CLINICAL TRIALS FOR PREVENTION, EARLY DETECTION AND TREATMENT OF CANCER, RESTRICTIONS — DEFINITIONS — EXCLUSIONS. — 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 6 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.

9. Nothing in this section shall apply to any accident-only policy, specified disease policy, hospital indemnity policy, Medicare supplement policy, long-term care policy,

short-term major medical policy of six months or less duration, or other limited benefit health insurance policies.

Approved July 1, 2003

SB 423 [SB 423]

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 Highway 65 in Taney County as the "Trooper Jimmie Linegar Memorial Highway".

AN ACT to amend chapter 227, RSMo, by adding thereto two new sections relating to designation of certain highways.

SECTION
A. Enacting clause.
227.331. Trooper Jimmie Linegar Memorial Highway, portion of U.S. Highway 65 in Taney County designated as.
227.343. The Short Line Railroad Spur Historic Trail, portion of state route 19 in Ozark County designated as.

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 227.331 and 227.343, to read as follows:

227.331. TROOPER JIMMIE LINEGAR MEMORIAL HIGHWAY, PORTION OF U.S. HIGHWAY 65 IN TANEY COUNTY DESIGNATED AS. — The portion of United States Highway 65 within a county of the first classification with more than thirty-nine thousand seven hundred but less than thirty-nine thousand eight hundred inhabitants from Highway 265 South to the border with the state of Arkansas shall be designated the "Trooper Jimmie Linegar Memorial Highway".

227.343. THE SHORT LINE RAILROAD SPUR HISTORIC TRAIL, PORTION OF STATE ROUTE 19 IN OZARK COUNTY DESIGNATED AS. — The portion of state route 19 from New London, Missouri, southwest to its intersection with state route 154, then west to Perry, Missouri, all located within a county of the third classification without a township form of government and with more than nine thousand five hundred fifty but less than nine thousand six hundred fifty inhabitants, shall be designated "The Short Line Railroad Spur Historic Trail".

Approved July 11, 2003

SB 426 [SB 426]

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

Modifies time state employees may receive paid leave for volunteering as a Red Cross disaster service volunteer.

AN ACT to repeal section 105.267, RSMo, and to enact in lieu thereof one new section relating to public officers and employees.

SECTION
A. Enacting clause.
105.267. Red Cross volunteers granted leave during disasters — procedure — definition — additional employees granted leave, when.

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

SECTION A. ENACTING CLAUSE. — Section 105.267, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.267, to read as follows:

105.267. RED CROSS VOLUNTEERS GRANTED LEAVE DURING DISASTERS — PROCEDURE — DEFINITION — ADDITIONAL EMPLOYEES GRANTED LEAVE, WHEN. — 1. Except as otherwise provided in this subsection, any employee of an agency of the state of Missouri, who has been certified by the American Red Cross as a disaster service volunteer, may be granted leave from work with pay to participate in specialized disaster relief services for the American Red Cross, not to exceed a total of twenty-five full-time equivalent state employees for a total of **[**fifteen calendar days**]** **one hundred twenty work hours** in any fiscal year for each full-time equivalent employee. The employee shall be released from work to participate in specialized disaster relief services upon request from an authorized representative of the American Red Cross for such employee and upon the approval of such employee's appointing authority. The appointing authority shall compensate an employee granted leave pursuant to this section at the employee's regular rate of pay for regular work hours during which the employee is absent from the employee's regular place of employment for the state of Missouri. Any leave granted pursuant to this section shall not affect the employee's leave status.

2. Before any payment of salary is made covering the period of the leave, the authorized representative of the American Red Cross shall file with the appointing authority or supervising agency evidence that such employee participated in specialized disaster relief services during the time such leave pay is granted.

3. No certified disaster service volunteer shall be discharged from employment because of such person's status as a certified disaster service volunteer nor shall such employee be discriminated against or dissuaded from volunteering or continuing such service as a certified disaster relief volunteer. For the purposes of this section, the term "certified disaster volunteer" means a person who has completed the necessary training for, and has been certified as, a disaster service specialist by the American Red Cross.

4. Upon written order of the governor, additional employees, not to exceed twenty-five full-time equivalent state employees, may be granted leave pursuant to this section to participate in specialized disaster relief services for disasters occurring within this state.

Approved July 11, 2003

SB 431 [SB 431]

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 informed consent for experimental treatments by accredited teaching hospitals.

AN ACT to repeal section 431.064, RSMo, and to enact in lieu thereof one new section relating to consent for experimental treatments.

SECTION
A. Enacting clause.
431.064. Experimental treatment, tests, and drugs, consent to administer by third party.

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

SECTION A. ENACTING CLAUSE. — Section 431.064, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 431.064, to read as follows:

431.064. EXPERIMENTAL TREATMENT, TESTS, AND DRUGS, CONSENT TO ADMINISTER BY THIRD PARTY. — 1. When an adult person, because of a medical condition, is treated **[**at**]** **by** a teaching hospital for a medical school accredited by the American Osteopathic Association or the American Medical Association and such person is incapable of giving informed consent for an experimental treatment, test or drug, then such treatment, test or drug may proceed upon obtaining consent of a legal guardian, attorney in fact, or a family member in the following order of priority:

(1) Spouse unless the patient has no spouse, or is separated, or the spouse is physically or mentally incapable of giving consent, or the spouse's whereabouts is unknown or the spouse is overseas;

(2) Adult child;

(3) Parent;

(4) Brother or sister;

(5) Relative by blood or marriage.

2. Nothing in this section shall authorize such legal guardian, attorney in fact, or family member to consent to treatment in contravention to such incapacitated person's expressed permission regarding such treatment.

Approved July 9, 2003

SB 447 [SCS SB 447]

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 basic civil legal services fund.

AN ACT to amend chapters 477 and 488, RSMo, by adding thereto two new sections relating to the basic civil legal services fund, with an expiration date.

SECTION
A. Enacting clause.
477.650. Basic civil legal services fund created, moneys to be used to increase funding for legal services to eligible low-income persons — allocation of moneys — record-keeping requirements — report to general assembly.
488.031. Additional fees for civil and criminal actions and proceedings, collection of.
B. Expiration date.

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

SECTION A. ENACTING CLAUSE. — Chapters 477 and 488, RSMo, are amended by adding thereto two new sections, to be known as sections 477.650 and 488.031, to read as follows:

477.650. BASIC CIVIL LEGAL SERVICES FUND CREATED, MONEYS TO BE USED TO INCREASE FUNDING FOR LEGAL SERVICES TO ELIGIBLE LOW-INCOME PERSONS — ALLOCATION OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT TO GENERAL ASSEMBLY. — 1. There is hereby created in the state treasury the "Basic Civil Legal Services Fund", to be administered by, or under the direction of, the Missouri supreme court. All moneys collected pursuant to section 488.031, RSMo, shall be credited to the fund. In addition to the court filing surcharges, funds from other public or private sources also may be deposited into the fund and all earnings of the fund shall be credited to the fund. The purpose of this section is to increase the funding available for basic civil legal services to eligible low-income persons as such persons are defined by the Federal Legal Services' Corporation Income Eligibility Guidelines.

2. Funds in the basic civil legal services fund shall be allocated annually and expended to provide legal representation to eligible low-income persons in the state in civil matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least as often as annually, be distributed to the legal services organizations in this state which qualify for federal legal services corporation funding. The funds so distributed shall be used by legal services organizations in this state solely to provide legal services to eligible low-income persons as such persons are defined by the Federal Legal Services' Corporation Income Eligibility Guidelines. Fund money shall be subject to all restrictions imposed on such legal services organizations by law. Funds shall be allocated to the programs according to the funding formula employed by the legal services corporation for the distribution of funds to this state. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the basic civil legal services fund at the end of any year shall not be transferred to the state's general revenue fund. Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund mandated by article X, section 15 of the Missouri Constitution.

3. The Missouri supreme court, or a person or organization designated by the court, is the administrator and shall administer the fund in such manner as determined by the Missouri supreme court, including in accordance with any rules and policies adopted by the Missouri supreme court for such purpose. Moneys from the fund shall be used to pay for the collection of the fee and the implementation and administration of the fund.

4. Each recipient of funds from the basic civil legal services fund shall maintain appropriate records accounting for the receipt and expenditure of all funds distributed and received pursuant to this section. These records must be maintained for a period of five years from the close of the fiscal year in which such funds are distributed or received or until audited, whichever is sooner. All funds distributed or received pursuant to this section are subject to audit by the Missouri supreme court or the state auditor.

5. The Missouri supreme court, or a person or organization designated by the court, shall, by January 31st of each year, report to the general assembly on the moneys collected and disbursed pursuant to this act by judicial circuit.

488.031. ADDITIONAL FEES FOR CIVIL AND CRIMINAL ACTIONS AND PROCEEDINGS, COLLECTION OF. — 1. In addition to other fees authorized by law, the clerk of each court shall collect the following fees on the filing of any civil or criminal action or proceeding, including an appeal, except that no fee shall be imposed pursuant to this section on any case that is filed charging traffic violations except alcohol-related offenses:

Supreme court and courts of appeals	**$20.00;**
Circuit courts	**$10.00;**
Associate circuit courts	**$8.00; and**
Small claims courts	**No additional fee**

2. Court filing surcharges pursuant to this section shall be collected in the same manner as other fees, fines, or costs in the case. The amounts so collected shall be paid by

the clerk to the office of the state courts administrator and credited to the special fund designated as the basic civil legal services fund. However, the additional fees prescribed by this section shall not be collected when a criminal proceeding or defendant has been dismissed by the court or when costs are waived or are to be paid by the state, county, municipality, or other political subdivision of this state.

SECTION B. EXPIRATION DATE. — The provisions of sections 477.650 and 488.031, RSMo, shall expire on December 31, 2007.

Approved July 11, 2003

SB 448 [CCS HCS SB 448]

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

Extends sunset for statewide court automation fund.

AN ACT to repeal section 476.055, RSMo, and to enact in lieu thereof one new section relating to the statewide court automation fund, with penalty provisions and an expiration date.

SECTION

A. Enacting clause.

476.055. Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report, committee, costs — expiration date.

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

SECTION A. ENACTING CLAUSE. — Section 476.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 476.055, to read as follows:

476.055. STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT, COMMITTEE, COSTS — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section **[**476.053**]** **488.027, RSMo**, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080, RSMo, requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, **[**2004**]** **2009**, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate and two members of the Missouri Bar. The judge members and employee

members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class D felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with the joint legislative committee on court automation. Such committee shall consist of the following:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee;

(4) The chair of the senate judiciary committee;

(5) One member of the minority party of the house appointed by the speaker of the house of representatives; and

(6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation.

9. Section **[**476.053**]** **488.027, RSMo,** shall expire on September 1, **[**2004**]** **2009**. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, **[**2007**]** **2011**.

10. This section shall expire on September 1, **[**2007**]** **2011**.

Approved July 3, 2003

SB 456 [SB 456]

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

Allows a self-directed deferred retirement plan program for the St. Louis Firefighters Retirement System.

AN ACT to repeal section 87.182, RSMo, and to enact in lieu thereof one new section relating to firemen's retirement systems, with an emergency clause.

SECTION

A. Enacting clause.
87.182. Deferred retirement option plan, may include self-directed program, established — procedures — election to stop participation, how — death, effect of — interest earned.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 87.182, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 87.182, to read as follows:

87.182. DEFERRED RETIREMENT OPTION PLAN, MAY INCLUDE SELF-DIRECTED PROGRAM, ESTABLISHED — PROCEDURES — ELECTION TO STOP PARTICIPATION, HOW — DEATH, EFFECT OF — INTEREST EARNED. — 1. The board may develop and establish a deferred retirement plan program (DROP) **which may include a self-directed program,** in which members eligible for retirement may participate. The DROP program shall be designed to allow members with at least twenty years of creditable service who have achieved eligibility for retirement and receipt of a service retirement allowance to continue active employment and defer receipt of the retirement allowance for a period not to exceed five years. Any member who has at least twenty years of creditable service may elect in writing before retirement to participate in the DROP program. A member electing to participate in the DROP program shall continue in active employment and shall not receive any direct retirement allowance payments during the time of participation. Upon the start of participation in the DROP program, the member shall make the contributions as provided in section 87.295. No contribution shall be required by the city. During the period of participation in the DROP program, the amount that the member would have received as a service retirement allowance shall be deposited monthly in the member's DROP account which shall be established in his or her name by the board. Service earned during the period of participation in the DROP program shall not be creditable service and shall not be counted in determination of any service retirement allowance.

2. If a member who has elected to participate in the DROP program chooses to stop participation in the DROP program, he or she shall notify the board in writing. Upon receipt of notice of a member's desire to end participation in the DROP program, the board shall return the member to non-DROP participation status and both the member and the city shall make the contributions required by sections 87.120 to 87.370. Service rendered after restoration of the member to non-DROP participation status shall be counted as creditable service. No member ending participation in the DROP program and returning to non-DROP participation status shall make any withdrawal from his or her DROP account until after termination of employment. If after return to non-DROP participation status, a member retires, the member's retirement allowance shall be computed on the combination of the member's pre-DROP service retirement allowance plus an additional allowance earned by a member after returning to non-DROP participation status. Post-DROP participation years of service will be the only years used in computing the additional allowance; however total years of creditable service will be used to

determine the appropriate level of additional allowance, two percent or five percent, for each year of post-DROP participation service. Upon retirement the member shall receive additional benefits as provided under the provisions of sections 87.120 to 87.371 plus the amount which has accumulated in his or her DROP account. The amount in the member's DROP account shall be payable, at the member's option, either as a lump sum payment or as a periodic payment calculated according to a deferred payment plan established by the board.

3. A member who terminates employment after participation in the DROP program may withdraw any amount in his or her DROP account in a lump sum or according to a deferred payment plan established by the board at his option. If the member is eligible to receive a service retirement allowance, benefit payment shall begin at the time specified in sections 87.120 to 87.370.

4. If a member dies prior to termination of employment while participating in the DROP program, the funds in his or her DROP account shall be payable to the member's designated beneficiary under either of the following options:

(1) A lump sum payment equal to the amount in the member's DROP account shall be paid to the beneficiary or the member's estate. The benefits for a beneficiary provided under the provisions of sections 87.120 to 87.370 shall be based on the member's compensation and creditable service prior to the member's election to participate in the DROP program; or

(2) The beneficiary shall waive any right, claim or interest in the member's DROP account and any benefits payable to the beneficiary under the provisions of sections 87.120 to 87.370 shall be calculated as if the member had continued as an employee and had not elected to participate in the DROP program. Any funds in a DROP account which has been waived as provided in this subdivision shall become funds of the system.

5. If a member who has elected to participate in the DROP program subsequently applies for and receives benefits for an accidental disability retirement allowance under the provisions of section 87.205, the member shall forfeit all rights, claims or interest in his or her DROP account and the member's benefits shall be calculated as if the member had continued in employment and had not elected to participate in the DROP program. Any funds in a DROP account which has been forfeited as provided in this subsection shall become funds of the system.

6. **Except in the case of any self-directed program,** a member's DROP account shall earn interest equal to the percentage rate of return of the system's investment portfolio as certified annually by the system's actuary in the yearly evaluation report. **Except in the case of any self-directed program,** the interest shall be credited annually to the member's account beginning with the start of the second fiscal year of participation.

7. No member may elect to participate in the DROP program more than once.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide equitable treatment and timely application of certain pension benefits and compensation, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 15, 2003

SB 457 [SB 457]

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

Allows a position on the executive council of the judicial conference to be filled.

AN ACT to repeal section 476.340, RSMo, and to enact in lieu thereof one new section relating to Executive Council of the Judicial Conference of the state of Missouri.

SECTION
A. Enacting clause.
476.340. Executive council shall be governing body, how formed — members.

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

SECTION A. ENACTING CLAUSE. — Section 476.340, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 476.340, to read as follows:

476.340. EXECUTIVE COUNCIL SHALL BE GOVERNING BODY, HOW FORMED — MEMBERS. — 1. The governing body of the conference, between annual sessions, shall be the executive council. The executive council shall consist of the following members:

(1) The chief justice of the supreme court, or some member of the supreme court appointed by him;

(2) Two other members of the supreme court appointed by the supreme court;

(3) One member of each district of the court of appeals elected by the judges thereof, respectively;

(4) Eight circuit judges, other than judges of the probate division, three of whom shall be elected for three-year terms, one from each district of the court of appeals, by the circuit judges, other than judges of the probate division, of the district to represent each of the districts of the court of appeals, respectively. A judge whose circuit is in part in more than one district of the court of appeals may vote in and be elected to represent either district but not both. Five of the circuit judges on the council shall be elected for three-year terms by the circuit judges of the state;

(5) One judge of the probate division of circuit courts in counties having a population of more than thirty thousand inhabitants elected for a three-year term by the judges of the probate divisions of the circuit courts in such counties;

(6) Three associate circuit judges elected for three-year terms, one from each district of the court of appeals, by the associate circuit judges of the district to represent each of the districts of the court of appeals, respectively;

(7) Three other associate circuit judges elected for three-year terms by the associate circuit judges of the state;

(8) One associate circuit judge from counties having a population of thirty thousand inhabitants or less elected for a three-year term by the associate circuit judges in such counties;

(9) One retired judge or commissioner who is a member of the judicial conference elected for a three-year term by such judges and commissioners. Members of the executive council on August 28, **[**1993**]** **2003**, shall serve out their terms and their replacements shall be elected under the provisions of this section. **Vacancies shall be filled for the unexpired term of any member as provided by resolution of the judicial conference.**

2. The executive council shall have general supervision of the work of the conference and such other duties and authority as may be given to it under rules or resolutions adopted by the conference. The members of the executive council shall elect one of its members vice president to act in the absence of the chief justice.

Approved May 30, 2003

SB 463 [SB 463]

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

Increases term of director for nonprofit corporation from five to six years.

AN ACT to repeal section 355.331 as enacted by house substitute for senate bill no. 768, eighty-eighth general assembly, second regular session, and to enact in lieu thereof one new section for the sole purpose of reenacting section 355.331 as enacted by house substitute for senate bill no. 768, eighty-eighth general assembly, second regular session which was held unconstitutional by the Missouri Supreme Court.

SECTION
A. Enacting clause.
355.331. Terms of directors, generally.
355.331. Terms of directors, generally.

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

SECTION A. ENACTING CLAUSE. — Section 355.331 as enacted by house substitute for senate bill no. 768, eighty-eighth general assembly, is repealed and one new section enacted in lieu thereof, to be known as section 355.331, to read as follows:

355.331. TERMS OF DIRECTORS, GENERALLY. — 1. The articles or bylaws shall specify the terms of directors. Except for designated or appointed directors, the terms of directors may not exceed six years. In the absence of any term specified in the articles or bylaws, the term of each director shall be one year. Directors may be elected for successive terms.

2. A decrease in the number of directors or term of office does not shorten an incumbent director's term.

3. Except as provided in the articles or bylaws:

(1) The term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members; and

(2) The term of a director filling any other vacancy expires at the end of the unexpired term which such director is filling.

4. Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, designated or appointed and qualifies, or until there is a decrease in the number of directors.

[355.331. TERMS OF DIRECTORS, GENERALLY. — 1. The articles or bylaws shall specify the terms of directors. Except for designated or appointed directors, the terms of directors may not exceed six years. In the absence of any term specified in the articles or bylaws, the term of each director shall be one year. Directors may be elected for successive terms.

2. A decrease in the number of directors or term of office does not shorten an incumbent director's term.

3. Except as provided in the articles or bylaws:

(1) The term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members; and

(2) The term of a director filling any other vacancy expires at the end of the unexpired term which such director is filling.

4. Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, designated or appointed and qualifies, or until there is a decrease in the number of directors.**]**

Approved May 30, 2003

SB 465 [HCS SB 465]

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 judicial finance commission.

AN ACT to repeal sections 50.640 and 477.600, RSMo, and to enact in lieu thereof two new sections relating to the judicial finance commission.

SECTION

A. Enacting clause.
50.640. Estimate of circuit court or circuit clerk, changed, how — disagreement with county, escrow account equal to difference established — resolved, how.
477.600. Judicial finance commission members, terms, vacancies, compensation — powers, duties, staff.

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

SECTION A. ENACTING CLAUSE. — Sections 50.640 and 477.600, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 50.640 and 477.600, to read as follows:

50.640. ESTIMATE OF CIRCUIT COURT OR CIRCUIT CLERK, CHANGED, HOW — DISAGREEMENT WITH COUNTY, ESCROW ACCOUNT EQUAL TO DIFFERENCE ESTABLISHED — RESOLVED, HOW. — 1. Except as otherwise provided in this section, all offices, departments, courts, institutions, commissions or other agencies spending moneys of the county shall perform the duties and observe the restrictions set forth in sections 50.540 to 50.630 relating to budget procedure and appropriations. The estimates of the circuit court, including all activities thereof and of the circuit clerk, shall be transmitted to the budget officer by the circuit clerk. The estimates of the circuit clerk shall bear the approval of the circuit court. The budget officer or the county commission shall not change the estimates of the circuit court or of the circuit clerk without the consent of the circuit court or the circuit clerk, respectively, but shall appropriate in the appropriation order the amounts estimated as originally submitted or as changed, with their consent.

2. If the county governing body deems the estimates of the circuit court to be unreasonable, the governing body may file a petition for review with the judicial finance commission on a form provided by the judicial finance commission after the estimates are included in the county budget. An amount equal to the difference between the estimates of the circuit court and the amounts deemed appropriate by the governing body shall be placed in a separate escrow account, and shall not be appropriated and expended until a final determination is made by the judicial finance commission under this subsection. The form provided by the judicial finance commission shall include an opportunity for the governing body and the circuit court to state their positions in a summary fashion. If a petition for review is filed, the circuit court shall have the burden of convincing the judicial finance commission that the amount estimated by it and included in the budget is reasonable. In determining if the circuit court estimate is reasonable,

the judicial finance commission shall consider the expenditures necessary to support the circuit court in relation to the expenditures necessary for the administration of all other county functions, the actual or estimated operating deficit or surplus from prior years, all interest and debt redemption charges, all capital projects expenditures, and the total estimated available revenues from all sources available for financing the proposed expenditures. In determining the reasonableness of any budget estimate involving compensation, the judicial finance commission shall also consider compensation for county employees with similar duties, length of service and educational qualifications. The judicial finance commission shall immediately order a settlement conference to determine if the matter can be resolved before ordering briefs and oral argument. The judicial finance commission, to the maximum extent practicable, shall resolve the dispute prior to the beginning of the fiscal year in question**, however, if the dispute is submitted within ninety days of the end of the fiscal year, the commission shall resolve the dispute within ninety days of the beginning of the subsequent fiscal year**. The county governing body may file and prosecute a petition for review without representation by counsel.

477.600. JUDICIAL FINANCE COMMISSION MEMBERS, TERMS, VACANCIES, COMPENSATION — POWERS, DUTIES, STAFF. — 1. There is hereby created within the judicial department a "Judicial Finance Commission". The commission shall be composed of seven members appointed by the supreme court. At least one member of the commission shall be a member of a county governing body from a county of the third class, one member of the commission shall be a member of the county governing body of a county of the first class, and one member of the commission shall be a member of a county governing body from any class of county. The supreme court shall designate one member to serve as chairman and one member as vice chairman. The vice chairman shall preside in the absence of the chairman.

2. The members of the commission shall serve for terms of three years and until their successors are appointed and qualified; except that of the initial members appointed, three shall serve for terms of one year, two shall serve for terms of two years and two shall serve for terms of three years, as designated by the court.

3. If a vacancy occurs the court shall appoint a replacement. The replacement shall serve the unexpired portion of the term and may be appointed to successive terms.

4. The commission shall promulgate rules of procedure which shall become effective upon approval by the supreme court. The supreme court may adopt such other rules as it deems appropriate to govern the procedures of the commission.

5. The commission shall:

(1) Examine the budget request of the circuit court upon the petition by the county governing body as provided in section 50.640, RSMo, or any budget or item in the budget estimated by the court including, but not limited to, compensation of deputy sheriffs and assistants, as set forth in section 57.250, RSMo;

(2) Issue a written opinion addressed to the presiding circuit judge and the presiding officer of the county. The opinion shall state the conclusions of the commission as to the reasonableness of the circuit court budget request. The opinion of the commission shall state clearly the reasons for its decision. Any member of the commission who disagrees with the commission's findings may file a minority report;

(3) Maintain accurate records of the cost and expenses of the judicial and law enforcement agencies for each county;

(4) Submit an annual report to the governor, general assembly, and supreme court on the finances of the judicial department. The report shall examine both the revenues of the department and the expenses of the department. The report shall **[**separately report on**]** **include the information from all divisions of the circuit court of each county including** the circuit, **probate,** associate circuit, juvenile and municipal divisions **[**of the circuit court of each county**]**. **The information shall be reported separately except where the divisions are combined or consolidated.**

6. In discharging its responsibilities, the commission may:

(1) Conduct public hearings, take testimony, summon witnesses, and subpoena records and documents;

(2) Conduct surveys and collect data from county governments and the circuit courts on the operations of the judicial and law enforcement agencies in each county. The commission and its staff shall be granted access at any reasonable time to all books, records, and data the commission deems necessary for the administration of its duties;

(3) Within the limits of appropriations made for the purpose, appoint special committees, accept and expend grant funds, and employ consultants and others to assist the commission in its work.

7. Upon receipt of the written opinion of the commission or upon refusal of the commission to accept a petition for review, the circuit court or the county governing body may seek a review by the supreme court by filing a petition for review in the supreme court within thirty days of the receipt of the commission's opinion. If a petition for review is not filed in the supreme court, then the recommendation of the commission shall take effect notwithstanding the provisions of section 50.600, RSMo. If the commission refused to review a petition and no petition is filed in the supreme court, the circuit court budget is approved as submitted to the county governing body. The supreme court shall consider the petition for review de novo.

8. The commission shall meet as necessary at the call of the chairman or on written request of four members. Four members constitute a quorum for the transaction of business. Upon request of the chairman, the supreme court may appoint a temporary replacement for any commissioner who is unable to hear a case or who is disqualified from any case. No member of the commission shall participate in any proceeding involving the county or circuit where the member resides.

9. Members of the commission shall receive no compensation for their services but shall be reimbursed out of funds appropriated for this purpose for their actual and necessary expenses incurred in the performance of their duties.

10. The clerk of the supreme court shall provide suitable staff for the commission out of any funds appropriated for this purpose. The commission may also employ court reporters as necessary to take testimony at hearings held pursuant to section 50.640, RSMo. The reporters shall be compensated at a rate established by the commission out of any funds appropriated for this purpose.

Approved June 26, 2003

SB 466 [SCS SB 466]

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

Modifies provisions relating to charges in criminal cases.

AN ACT to repeal sections 57.290, 67.133, 488.4014, and 488.5320, RSMo, and to enact in lieu thereof three new sections relating to charges in criminal cases.

SECTION

A. Enacting clause.
57.290. Charges in criminal cases.
488.4014. Court costs in certain civil and criminal cases, exceptions — collection and deposit procedure — distribution — county entitled to judgment, when.
488.5320. Charges in criminal cases, sheriffs and other officers.

67.133. Court costs in civil and nonfelony criminal cases, exceptions — collection and deposit procedure — distribution — county entitled to judgment, when.

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

SECTION A. ENACTING CLAUSE. — Sections 57.290, 67.133, 488.4014, and 488.5320, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 57.290, 488.4014, and 488.5320, to read as follows:

57.290. CHARGES IN CRIMINAL CASES. — 1. **[**Sheriffs, county marshals or other officers shall be allowed a charge for their services rendered in criminal cases and in all proceedings for contempt or attachment, as required by law, the sum of seventy-five dollars for each felony case or contempt or attachment proceeding, ten dollars for each misdemeanor case, and six dollars for each infraction, excluding cases disposed of by a traffic violations bureau established pursuant to law or supreme court rule. Such charges shall be charged and collected in the manner provided by sections 488.010 to 488.020, RSMo, and shall be payable to the county treasury.

2. The sheriff receiving any charge pursuant to subsection 1 of this section shall reimburse the sheriff of any other county or the city of St. Louis the sum of three dollars for each pleading, writ, summons, order of court of other document served in connection with the case or proceeding by the sheriff of the other county or city, and return made thereof, to the maximum amount of the total charge received pursuant to subsection 1 of this section.

3.**]** In cities and counties having a population of three hundred thousand inhabitants and over, each deputy sheriff, not more than two, shall be allowed for each day during the term of court six dollars, to be paid by the city or county of three hundred thousand inhabitants or over.

[4.**]** **2.** For the services of taking convicted offenders to the reception and diagnostic center designated by the director of the department of corrections, the sheriff, county marshal or other officers shall receive the sum of eight dollars per day for the time actually and necessarily employed in traveling to and from the reception and diagnostic center, and each guard shall receive the sum of six dollars per day for the same, and the sheriff, county marshal or other officer and guard shall receive the mileage rate prescribed by this section for the distance necessarily traveled in going to and returning from the reception and diagnostic center, the time and distance to be estimated by the most usually traveled route from the place of departure to the reception and diagnostic center; the mileage rate prescribed by this section for each mile traveled shall be allowed to the sheriff to cover all expenses on each convicted offender while being taken to the reception and diagnostic center; and all persons convicted and sentenced to imprisonment in the department of corrections at any term or sitting of the court, shall be taken to the reception and diagnostic center at the same time, unless prevented by sickness or unavoidable accident. In cities having a population of two hundred thousand inhabitants or more, convicted offenders shall be taken to the reception and diagnostic center as often as the sheriff deems necessary. When three or more convicted offenders are being taken to the reception and diagnostic center at one time, a guard may be employed, but no guard shall be employed for a less number of convicted offenders except upon the order, entered of record, of the judge of the court in which the conviction was had, and any additional guards employed by order of the judge shall, in no event, exceed one for every three convicted offenders; and before any claim for taking convicted offenders to the reception and diagnostic center is allowed, the sheriff, or other officer conveying such convicted offender, shall file with the state commissioner of administration an itemized statement of such sheriff's account, in which the sheriff shall give the name of each convicted offender conveyed and the name of each guard actually employed, with the number of miles necessarily traveled and the number of days required, which in no case shall exceed three days, and which account shall be signed and sworn to by such officer and accompanied by a certificate from the chief administrative officer or such officer's designee of the reception and diagnostic

center, that such convicted offenders have been delivered at the reception and diagnostic center and were accompanied by each of the officers and guards named in the account.

[5.**]** **3.** The sheriff or other officer who shall take a person, charged with a criminal offense, from the county in which the offender is apprehended to that in which the offense was committed, or who may remove a prisoner from one county to another for any cause authorized by law, or who shall have in custody or under such sheriff's or officer's charge any person undergoing an examination preparatory to such person's commitment more than one day for transporting, safekeeping and maintaining any such person, shall be allowed by the court having cognizance of the offense, three dollars and fifty cents per day for every day such sheriff or officer may have such person under such sheriff's or officer's charge, when the number of days shall exceed one, and the mileage rate prescribed by this section for every mile necessarily traveled in going to and returning from one county to another, and the guard employed, who shall in no event exceed the number allowed the sheriff, marshal or other officer in transporting convicted offenders to the reception and diagnostic center, shall be allowed the same compensation as the officer. Three dollars and fifty cents per day, mileage same as officer, shall be allowed for board and all other expenses of each prisoner. No compensation shall be allowed under this section for taking the prisoner or prisoners from one place to another in the same county, excepting in counties which have two or more courts with general criminal jurisdiction. In such counties the sheriff shall have the same fees for conveying prisoners from the jail to place of trial as are allowed for conveying prisoners in like cases from one county to another, and the expenses incurred in transporting prisoners from one county to another, occasioned by the insufficiency of the county jail or threatened mob violence, shall be paid by the county in which such case may have originated; provided that the court is held at a place more than five miles from the jail; and no court shall allow the expense of a guard, although it may have actually been incurred, unless from the evidence of disinterested persons it shall be satisfied that a guard was necessary; provided, that when the place of conviction is remote from a railroad, upon which a convicted offender may be transported to the reception and diagnostic center, the court before which such convicted offender is sentenced may, for good cause shown, allow one guard for every two convicted offenders, such guard to receive three dollars a day and the mileage rate prescribed by this section for every mile necessarily traveled in going to and returning from the nearest depot on said railroad to the place where such convicted offender was sentenced.

[6. The charges provided in subsection 1 of this section shall be taxed as other costs in criminal procedure immediately after conviction of any defendant in any criminal procedure. The clerk shall tax all the costs in the case against such defendant, which shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo; provided, that no such charge shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court; provided further, that all costs, incident to the issuing and serving of writs of scire facias and of writs of fieri facias, and of attachments for witnesses of defendant, shall in no case be paid by the state, but such costs incurred under writs of fieri facias and scire facias shall be paid by the defendant and such defendant's sureties, and costs for attachments for witnesses shall be paid by such witnesses.

7.**]** **4.** Mileage shall be reimbursed to sheriffs, county marshals and guards for all services rendered pursuant to this section at the rate prescribed by the Internal Revenue Service for allowable expenses for motor vehicle use expressed as an amount per mile.

488.4014. COURT COSTS IN CERTAIN CIVIL AND CRIMINAL CASES, EXCEPTIONS — COLLECTION AND DEPOSIT PROCEDURE — DISTRIBUTION — COUNTY ENTITLED TO JUDGMENT, WHEN. — 1. A fee of ten dollars**[**, as provided in section 67.133, RSMo,**]** shall be assessed in all cases in which the defendant is convicted of violating any provision of chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, and any infraction otherwise provided by law, twenty-five dollars in all misdemeanor cases otherwise provided by law, and seventy-five dollars

in all felony cases, in criminal cases including violations of any county ordinance or any violation of a criminal or traffic law of the state, except that no such fees shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. All fees collected under the provisions of **this** section **[**67.133, RSMo,**]** shall be collected and disbursed in the manner provided by sections 488.010 to 488.020 and payable to the county treasurer who shall deposit those funds in the county treasury.

2. Counties shall be entitled to a judgment in the amount of twenty-five percent of all sums collected, pursuant to **this** section **[**67.133, RSMo**]**, on recognizances given to the state in criminal cases, which are or may become forfeited, if not more than five hundred dollars, and fifteen percent of all sums over five hundred dollars, to be paid out of the amount collected.

488.5320. CHARGES IN CRIMINAL CASES, SHERIFFS AND OTHER OFFICERS. — 1. Sheriffs, county marshals or other officers shall be allowed a charge**[**, as provided in section 57.290, RSMo,**]** for their services rendered in criminal cases and in all proceedings for contempt or attachment, as required by law, the sum of seventy-five dollars for each felony case or contempt or attachment proceeding, ten dollars for each misdemeanor case, and six dollars for each infraction, excluding cases disposed of by a traffic violations bureau established pursuant to law or supreme court rule. Such charges shall be charged and collected in the manner provided by sections 488.010 to 488.020 and shall be payable to the county treasury.

2. The sheriff receiving any charge pursuant to **[**section 57.290, RSMo,**]** **subsection 1 of this section** shall reimburse the sheriff of any other county or the City of St. Louis the sum of three dollars for each pleading, writ, summons, order of court or other document served in connection with the case or proceeding by the sheriff of the other county or city, and return made thereof, to the maximum amount of the total charge received pursuant to **[**section 57.290, RSMo**]** **subsection 1 of this section**.

[3. As provided in section 57.290, RSMo, in cities and counties having a population of three hundred thousand inhabitants and over, each deputy sheriff, but not more than two deputy sheriffs, shall be allowed six dollars for each day during the term of court, to be paid by the city or county having a population of three hundred thousand inhabitants or over.

4. For the services of taking convicted offenders to the reception and diagnostic center designated by the director of the department of corrections, the sheriff, county marshal or other officers shall, as provided in section 57.290, RSMo, receive the sum of eight dollars per day for the time actually and necessarily employed in traveling to and from the reception and diagnostic center, and each guard shall, as provided in section 57.290, RSMo, receive the sum of six dollars per day for the same, and the sheriff, county marshal or other officer and guard shall, as provided in section 57.290, RSMo, receive the mileage rate prescribed by section 57.290, RSMo, for the distance necessarily traveled in going to and returning from the reception and diagnostic center, the time and distance to be estimated by the most usually traveled route from the place of departure to the reception and diagnostic center; the mileage rate prescribed by section 57.290, RSMo, for each mile traveled shall be allowed to the sheriff to cover all expenses on each convicted offender while being taken to the reception and diagnostic center; and all persons convicted and sentenced to imprisonment in the department of corrections at any term or sitting of the court, shall be taken to the reception and diagnostic center at the same time, unless prevented by sickness or unavoidable accident. In cities having a population of two hundred thousand inhabitants or more, convicted offenders shall be taken to the reception and diagnostic center as often as the sheriff deems necessary. When three or more convicted offenders are being taken to the reception and diagnostic center at one time, a guard may be employed, as provided in section 57.290, RSMo, but no guard shall be employed for a less number of convicted offenders except upon the order, entered of record, of the judge of the court in which the conviction was had, and any additional guards employed by order of the judge shall, in no event, exceed one for every three convicted offenders; and before any claim for taking

convicted offenders to the reception and diagnostic center is allowed, the sheriff, or other officer conveying such convicted offender, shall file with the state commissioner of administration an itemized statement of such sheriff's account, in which the sheriff shall give the name of each convicted offender conveyed and the name of each guard actually employed, with the number of miles necessarily traveled and the number of days required, which in no case shall exceed three days, and which account shall be signed and sworn to by such officer and accompanied by a certificate from the chief administrative officer or such officer's designee of the reception and diagnostic center, that such convicted offenders have been delivered at the reception and diagnostic center and were accompanied by each of the officers and guards named in the account.

5. The sheriff or other officer who shall take a person, charged with a criminal offense, from the county in which the offender is apprehended to that in which the offense was committed, or who may remove a prisoner from one county to another for any cause authorized by law, or who shall have in custody or under such sheriff's or officer's charge any person undergoing an examination preparatory to such person's commitment more than one day for transporting, safekeeping and maintaining any such person, shall be allowed by the court having cognizance of the offense, three dollars and fifty cents per day, as provided in section 57.290, RSMo, for every day such sheriff or officer may have such person under such sheriff's or officer's charge, when the number of days shall exceed one, and the mileage rate prescribed by section 57.290, RSMo, for every mile necessarily traveled in going to and returning from one county to another, and the guard employed, who shall in no event exceed the number allowed the sheriff, marshal or other officer in transporting convicted offenders to the reception and diagnostic center, shall be allowed, as provided in section 57.290, RSMo, the same compensation as the officer. Three dollars and fifty cents per day, mileage same as officer, shall be allowed for board and all other expenses of each prisoner. No compensation shall be allowed under this section for taking the prisoner or prisoners from one place to another in the same county, excepting in counties which have two or more courts with general criminal jurisdiction. In such counties the sheriff shall have the same fees for conveying prisoners from the jail to place of trial as are allowed for conveying prisoners in like cases from one county to another, and the expenses incurred in transporting prisoners from one county to another, occasioned by the insufficiency of the county jail or threatened mob violence, shall be paid by the county in which such case may have originated; provided that the court is held at a place more than five miles from the jail; and no court shall allow the expense of a guard, although it may have actually been incurred, unless from the evidence of disinterested persons it shall be satisfied that a guard was necessary; provided, that when the place of conviction is remote from a railroad, upon which a convicted offender may be transported to the reception and diagnostic center, the court before which such convicted offender is sentenced may, for good cause shown, allow one guard for every two convicted offenders, such guard to receive three dollars a day and the mileage rate prescribed by section 57.290, RSMo, for every mile necessarily traveled in going to and returning from the nearest depot on such railroad to the place where such convicted offender was sentenced.

6.**]** **3.** The charges provided in subsection 1 of this section shall be taxed as other costs in criminal procedure immediately after conviction of any defendant in any criminal procedure. The clerk shall tax all the costs in the case against such defendant, which shall be collected and disbursed as provided by sections 488.010 to 488.020; provided, that no such charge shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court; provided further, that all costs, incident to the issuing and serving of writs of scire facias and of writs of fieri facias, and of attachments for witnesses of defendant, shall in no case be paid by the state, but such costs incurred under writs of fieri facias and scire facias shall be paid by the defendant and such defendant's sureties, and costs for attachments for witnesses shall be paid by such witnesses.

[7.**]** **4.** Mileage shall be reimbursed to sheriffs, county marshals and guards for all services rendered pursuant to **this** section **[**57.290, RSMo,**]** at the rate prescribed by the Internal Revenue Service for allowable expenses for motor vehicle use expressed as an amount per mile.

[67.133. COURT COSTS IN CIVIL AND NONFELONY CRIMINAL CASES, EXCEPTIONS — COLLECTION AND DEPOSIT PROCEDURE — DISTRIBUTION — COUNTY ENTITLED TO JUDGMENT, WHEN. — 1. A fee of ten dollars shall be assessed in all cases in which the defendant is convicted of a nonfelony violation of any provision of chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, and any infraction otherwise provided by law, twenty-five dollars in all misdemeanor cases otherwise provided by law, and seventy-five dollars in all felony cases, in criminal cases including violations of any county ordinance or any violation of a criminal or traffic law of the state, except that no such fees shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. All fees collected under the provisions of this section shall be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo, and payable to the county treasurer who shall deposit those funds in the county treasury.

2. Counties shall be entitled to a judgment in the amount of twenty-five percent of all sums collected on recognizances given to the state in criminal cases, which are or may become forfeited, if not more than five hundred dollars, and fifteen percent of all sums over five hundred dollars, to be paid out of the amount collected.**]**

Approved July 9, 2003

SB 467 [SB 467]

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

Increases criminal case filing surcharge.

AN ACT to repeal section 488.5339, RSMo, and to enact in lieu thereof one new section relating to a surcharge to fund the crime victims' compensation fund.

SECTION

A. Enacting clause.

488.5339. Surcharge for crime victims' compensation fund, exceptions — surcharge in juvenile court proceedings where child allegedly violates state law or municipal ordinance — disbursement.

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

SECTION A. ENACTING CLAUSE. — Section 488.5339, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 488.5339, to read as follows:

488.5339. SURCHARGE FOR CRIME VICTIMS' COMPENSATION FUND, EXCEPTIONS — SURCHARGE IN JUVENILE COURT PROCEEDINGS WHERE CHILD ALLEGEDLY VIOLATES STATE LAW OR MUNICIPAL ORDINANCE — DISBURSEMENT. — 1. There is created in section 595.045, RSMo, the crime victims' compensation fund. A surcharge of **[**five**]** **seven** dollars **and fifty cents** shall be assessed pursuant to section 595.045, RSMo, as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court

when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. A surcharge of **[**five**]** **seven** dollars **and fifty cents** shall be assessed pursuant to section 595.045, RSMo, as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020.

Approved July 11, 2003

SB 468 [SB 468]

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

Modifies types of case dispositions that must be reported to the Uniform Law Enforcement System Records.

AN ACT to repeal sections 43.080 and 577.051, RSMo, and to enact in lieu thereof two new sections relating to the forwarding of case dispositions to the Missouri state highway patrol, with penalty provisions.

SECTION

A. Enacting clause.
577.051. Missouri uniform law enforcement system records, information entered by highway patrol, when, made available, to whom — failure to furnish records to patrol, penalty — forms and procedure for filing records.
A. Enacting clause.
43.080. Service salary increases — annual salary schedule submitted to governor and general assembly, contents — service defined.

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

SECTION A. ENACTING CLAUSE. — Section 577.051, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.051, to read as follows:

577.051. MISSOURI UNIFORM LAW ENFORCEMENT SYSTEM RECORDS, INFORMATION ENTERED BY HIGHWAY PATROL, WHEN, MADE AVAILABLE, TO WHOM — FAILURE TO FURNISH RECORDS TO PATROL, PENALTY — FORMS AND PROCEDURE FOR FILING RECORDS. — 1. A record of the **[**final**]** disposition in any court proceeding involving a violation of any of the provisions of sections 577.005 to 577.023, or violation of county or municipal ordinances involving alcohol- or drug-related driving offenses**[**, pleas of guilty, findings of guilty, suspended imposition of sentence, suspended execution of sentence, probation, conditional sentences and sentences of confinement**]** shall be forwarded to the Missouri state highway patrol, or at the written direction of the Missouri state highway patrol, to the department of revenue, within fifteen days by the clerk of the court in which the proceeding was held and shall be entered by the highway patrol or department of revenue in the Missouri uniform law enforcement system records. **Dispositions that shall be reported are pleas of guilty, findings of guilty, suspended imposition of sentence, suspended execution of sentence, probation, conditional sentences, sentences of confinement and any other such dispositions that may be required under state or federal regulations.** The record forwarded by the clerk shall clearly show the court, the court

case number, the name, address, and motor vehicle operator's or chauffeur's license number of the person who is the subject of the proceeding, the code or number identifying the particular arrest, and any court action or requirements pertaining thereto.

2. All records received by the Missouri state highway patrol or the department of revenue under the provisions of this section shall be entered in the Missouri uniform law enforcement system records and maintained by the Missouri state highway patrol. Records placed in the Missouri uniform law enforcement system under the provisions of this section shall be made available to any law enforcement officer in this state, any prosecuting or circuit attorney in this state, or to any judge of a municipal or state court upon request.

3. Any person required by this section to furnish records to the Missouri state highway patrol or department of revenue who willfully refuses to furnish such records shall be guilty of a class C misdemeanor.

4. Records required to be filed with the Missouri state highway patrol or the department of revenue under the provisions of sections 302.225, RSMo, and 577.001 to 577.051 shall be filed beginning July 1, 1983, and no penalties for nonfiling of records shall be applied prior to July 1, 1983.

5. Forms and procedures for filing of records with the Missouri state highway patrol or department of revenue as required in this chapter shall be promulgated by the director of the department of public safety or department of revenue, as applicable, and approved by the Missouri supreme court.

6. All record-keeping procedures required under the provisions of sections 577.005 to 577.023 shall be in accordance with this section, chapter 610, RSMo, to the contrary notwithstanding.

SECTION A. ENACTING CLAUSE. — Section 43.080, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.080, to read as follows:

43.080. SERVICE SALARY INCREASES — ANNUAL SALARY SCHEDULE SUBMITTED TO GOVERNOR AND GENERAL ASSEMBLY, CONTENTS — SERVICE DEFINED. — The superintendent is authorized and empowered to prescribe policies providing for increases **[**every five years**]** in the salaries of **[**such**]** members **[**beginning with the sixth year of service, and thereafter to fix the salaries of such members in accordance therewith, except that no such five-year increase shall exceed ten percent of the member's salary**]** **of the highway patrol**. **Each year, prior to January first, the superintendent shall submit a salary schedule report to the governor, speaker of the house of representatives, and the president pro tem of the senate. The salary schedule report prepared by the superintendent shall include, in addition to other matters deemed pertinent to the superintendent, a comparison of the salaries of police officers of the three largest police departments in the state. The governor may make additional recommendations to the report and forward them to the speaker of the house of representatives and the president pro tem of the senate. The speaker of the house of representatives and the president pro tem of the senate may assign the salary schedule report to the appropriate standing committees to review the salary comparisons to ensure that parity in the salary of members of the highway patrol and officers of the three largest police departments is maintained.** The "service" of a member of the patrol, who has served in the armed forces of the United States and who has subsequently been reinstated as a member of the patrol within ninety days after receiving a discharge other than dishonorable from the armed forces of the United States, shall be considered service with the patrol as a member of the patrol rendered since last becoming a member prior to entrance into the armed forces of the United States; except that no member shall be entitled to any credit, privilege or benefit provided by this chapter if such member voluntarily extends or participates in an extension of the period of service, whether by reenlistment, waiver of discharge, acceptance of

commission or any other action, with the armed forces beyond the period of service for which such member was originally commissioned, enlisted, inducted or called.

Approved July 11, 2003

SB 471 [SB 471]

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

Modifies filing requirements for child support garnishment orders.

AN ACT to repeal section 454.505, RSMo, and to enact in lieu thereof one new section relating to filing of garnishment orders.

SECTION

A. Enacting clause.

454.505. Garnishment of wages, when, procedure, limitations — notice to employer, contents — employer, duties, liabilities — priorities — discharge of employee prohibited, when, penalties for — orders issued by another state, laws to govern.

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

SECTION A. ENACTING CLAUSE. — Section 454.505, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 454.505, to read as follows:

454.505. GARNISHMENT OF WAGES, WHEN, PROCEDURE, LIMITATIONS — NOTICE TO EMPLOYER, CONTENTS — EMPLOYER, DUTIES, LIABILITIES — PRIORITIES — DISCHARGE OF EMPLOYEE PROHIBITED, WHEN, PENALTIES FOR — ORDERS ISSUED BY ANOTHER STATE, LAWS TO GOVERN. — 1. In addition to any other remedy provided by law for the enforcement of support, if a support order has been entered, the director shall issue an order directing any employer or other payor of the parent to withhold and pay over to the division, the payment center pursuant to section 454.530 or the clerk of the circuit court in the county in which a trusteeship is or will be established, money due or to become due the obligated parent in an amount not to exceed federal wage garnishment limitations. For administrative child support orders issued pursuant to sections other than section 454.476, the director shall not issue an order to withhold and pay over in any case in which:

(1) One of the parties demonstrates, and the director finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that there is good cause not to require immediate withholding shall be based on, at least, a written determination and an explanation by the director that implementing immediate wage withholding would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative payment arrangement. If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section, without further exception, on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation.

2. An order entered pursuant to this section shall recite the amount required to be paid as continuing support, the amount to be paid monthly for arrearages and the Social Security number

of the obligor if available. In addition, the order shall contain a provision that the obligor shall notify the division of child support enforcement regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in access to such insurance coverage. A copy of section 454.460 and this section shall be appended to the order. **[**A copy of such order shall be filed with the circuit court in the county or city not within a county in which the judgment of dissolution or paternity was entered, or if no such judgment was entered, in the county or city not within a county where either parent or the child resides or where the order or judgment is filed or registered.**]**

3. An order entered pursuant to this section shall be served on the employer or other payor by certified mail, return receipt requested or may be issued through electronic means, and shall be binding on the employer or other payor two weeks after mailing or electronic issuance of such service. A copy of the order and a notice of property exempt from withholding shall be mailed to the obligor at the obligor's last known address. The notice shall advise the obligor that the withholding has commenced and the procedures to contest such withholding pursuant to section 454.475 on the grounds that such withholding or the amount withheld is improper due to a mistake of fact by requesting a hearing thirty days from mailing the notice. At such a hearing the certified copy of the court order and the sworn or certified statement of arrearages shall constitute prima facie evidence that the director's order is valid and enforceable. If a prima facie case is established, the obligor may only assert mistake of fact as a defense. For purposes of this section, "mistake of fact" means an error in the amount of the withholding or an error as to the identity of the obligor. The obligor shall have the burden of proof on such issues. The obligor may not obtain relief from the withholding by paying the overdue support. The employer or other payor shall withhold from the earnings or other income of each obligor the amount specified in the order, and may deduct an additional sum not to exceed six dollars per month as reimbursement for costs, except that the total amount withheld shall not exceed the limitations contained in the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b). The employer or other payor shall transmit the payments as directed in the order within seven business days of the date the earnings, money due or other income was payable to the obligor. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payor shall, along with the amounts transmitted, provide the date the amount was withheld from each obligor. If the order does not contain the Social Security number of the obligor, the employer or other payor shall not be liable for withholding from the incorrect obligor.

4. If the order is served on a payor other than an employer, it shall be a lien against any money due or to become due the obligated parent which is in the possession of the payor on the date of service or which may come into the possession of the payor after service until further order of the director, except for any deposits held in two or more names in a financial institution.

5. The division shall notify an employer or other payor upon whom such an order has been directed whenever all arrearages have been paid in full, and whenever, for any other reason, the amount required to be withheld and paid over to the payment center pursuant to the order as to future pay periods is to be reduced or redirected. If the parent's support obligation is required to be paid monthly and the parent's pay periods are at more frequent intervals, the employer or other payor may, at the request of the obligee or the director, withhold and pay over to the payment center, an equal amount at each pay period cumulatively sufficient to comply with the withholding order.

6. An order issued pursuant to subsection 1 of this section shall be a continuing order and shall remain in effect and be binding upon any employer or other payor upon whom it is directed until a further order of the director. Such orders shall terminate when all children for whom the support order applies are emancipated or deceased, or the support obligation otherwise ends, and all arrearages are paid. No order to withhold shall be terminated solely because the obligor has fully paid arrearages.

7. An order issued pursuant to subsection 1 of this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other legal process is an order issued pursuant to this section or section 452.350, RSMo, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and includes a wage withholding from another state pursuant to section 454.932, the employer shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and does not include a wage withholding from another state pursuant to section 454.932, the employer shall withhold and pay to the payment center an amount equal to the wage withholding limitations. The payment center shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

8. No employer or other payor who complies with an order entered pursuant to this section shall be liable to the parent, or to any other person claiming rights derived from the parent, for wrongful withholding. An employer or other payor who fails or refuses to withhold or pay the amounts as ordered pursuant to this section shall be liable to the party holding the support rights in an amount equal to the amount which became due the parent during the relevant period and which, pursuant to the order, should have been withheld and paid over. The director is hereby authorized to bring an action in circuit court to determine the liability of an employer or other payor for failure to withhold or pay the amounts as ordered. If a court finds that a violation has occurred, the court may fine the employer in an amount not to exceed five hundred dollars. The court may also enter a judgment against the employer for the amounts to be withheld or paid, court costs and reasonable attorney's fees.

9. The remedy provided by this section shall be available where the state or any of its political subdivisions is the employer or other payor of the obligated parent in the same manner and to the same extent as where the employer or other payor is a private party.

10. An employer shall not discharge, or refuse to hire or otherwise discipline an employee as a result of an order to withhold and pay over certain money authorized by this section. If any such employee is discharged within thirty days of the date upon which an order to withhold and pay over certain money is to take effect, there shall arise a rebuttable presumption that such discharge was a result of such order. This presumption shall be overcome only by clear, cogent and convincing evidence produced by the employer that the employee was not terminated because of the order to withhold and pay over certain money. The director is hereby authorized to bring an action in circuit court to determine whether the discharge constitutes a violation of this subsection. If the court finds that a violation has occurred, the court may enter an order against the employer requiring reinstatement of the employee and may fine the employer in an amount not to exceed one hundred fifty dollars. Further, the court may enter judgment against the employer for the back wages, costs, attorney's fees, and for the amount of child support which should have been withheld and paid over during the period of time the employee was wrongfully discharged.

11. If an obligor for whom an order to withhold has been issued pursuant to subsection 1 of this section terminates the obligor's employment, the employer shall, within ten days of the termination, notify the division of the termination, shall provide to the division the last known

address of the obligor, if known to the employer, and shall provide to the division the name and address of the obligor's new employer, if known. When the division determines the identity of the obligor's new employer, the director shall issue an order to the new employer as provided in subsection 1 of this section.

12. If an employer or other payor is withholding amounts for more than one order issued pursuant to subsection 1 of this section, the employer or other payor may transmit all such withholdings which are to be remitted to the same circuit clerk, other collection unit or to the payment center after October 1, 1999, as one payment together with a separate list identifying obligors for whom a withholding has been made and the amount withheld from each obligor so listed, and the withholding date or dates for each obligor.

13. For purposes of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program, and interest.

14. The employer shall withhold funds as directed in the notice, except if an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(1) The employer's fee for processing an income withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income;

(3) The time periods within which the employer shall implement the income withholding order and forward the child support payments;

(4) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(5) Any withholding terms and conditions not specified in the order.

15. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the director shall use such notice prescribed by the secretary.

Approved June 9, 2003

SB 474 [HCS SB 474]

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

Modifies surcharge procedure in civil case filings.

AN ACT to repeal sections 488.426 and 488.429, RSMo, and to enact in lieu thereof two new sections relating to surcharges in civil case filings.

SECTION

A. Enacting clause.
488.426. Deposit required in civil actions — exemptions — surcharge to remain in effect.
488.429. Fund paid to treasurer designated by circuit judge — use of fund for law library, and courtroom renovation and technology enhancement in certain counties

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

SECTION A. ENACTING CLAUSE. — Sections 488.426 and 488.429, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 488.426 and 488.429, to read as follows:

488.426. DEPOSIT REQUIRED IN CIVIL ACTIONS — EXEMPTIONS — SURCHARGE TO REMAIN IN EFFECT. — 1. The judges of the circuit court, en banc, in any circuit in this state may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge in addition to all other deposits required by law or court rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

2. The surcharge in effect on August 28, 2001, shall remain in effect until changed by the circuit court. The circuit court in any circuit, except the circuit court in Jackson County may change the fee to any amount not to exceed fifteen dollars. The circuit court in Jackson County may change the fee to any amount not to exceed twenty dollars. A change in the fee shall become effective and remain in effect until further changed **[**beginning on January first if the office of state courts administrator is notified of the proposed change not later than the preceding September first**]**.

3. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are paid by the county or state or any city.

488.429. FUND PAID TO TREASURER DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY, AND COURTROOM RENOVATION AND TECHNOLOGY ENHANCEMENT IN CERTAIN COUNTIES — 1. Moneys collected pursuant to section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. In any county of the first classification without a charter form of government and with a population of at least two hundred thousand, such fund may also be applied and expended for that county's or circuit's family services and justice fund.

3. 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 or in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but less than thirteen thousand six hundred inhabitants, such fund may also be applied and expended for courtroom renovation and technology enhancement in those counties.

Approved July 11, 2003

SB 478 [SCS SB 478]

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

Creates inactive status for architects and psychologists and modifies duties of landscape architects.

AN ACT to repeal sections 327.401, 327.411, and 337.030, RSMo, and to enact in lieu thereof four new sections relating to professional licensing.

SECTION

A. Enacting clause.
327.401. Right to practice not transferable — corporation, certificate of authority required.
327.411. Personal seal, how used, effect of.
327.172. Inactive license status granted, when, procedure — return to active status, procedure.
337.030. License renewal, registration fee, proof of compliance — late registration, penalty — lost certificate, how replaced — fees, amount, how set — inactive license issued, when.

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

SECTION A. ENACTING CLAUSE. — Sections 327.401, 327.411, and 337.030, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 327.401, 327.411, 327.172, and 337.030, to read as follows:

327.401. RIGHT TO PRACTICE NOT TRANSFERABLE — CORPORATION, CERTIFICATE OF AUTHORITY REQUIRED. — 1. The right to practice as an architect or to practice as a professional engineer or to practice as a professional land surveyor **or to practice as a landscape architect** shall be deemed a personal right, based upon the qualifications of the individual, evidenced by such individual's professional license and shall not be transferable; but any architect or any professional engineer or any professional land surveyor **or any landscape architect** may practice his or her profession through the medium of, or as a member or as an employee of, a partnership or corporation if the plans, specifications, estimates, plats, reports, surveys or other like documents or instruments of the partnership or corporation are signed and stamped with the personal seal of the architect, professional engineer **[**or**],** professional land surveyor**, or landscape architect** by whom or under whose immediate personal supervision the same were prepared and provided that the architect or professional engineer or professional land surveyor **or landscape architect** who affixes his or her signature and personal seal to any such plans, specifications, estimates, plats, reports or other documents or instruments shall be personally and professionally responsible therefor.

2. Any domestic corporation formed under the corporation law of this state, or any foreign corporation, now or hereafter organized and having as one of its purposes the practicing of architecture or professional engineering or professional land surveying **or landscape architecture** and any existing corporation which amends its charter to propose to practice architecture or professional engineering or professional land surveying **or landscape architecture** shall obtain a certificate of authority for each profession named in the articles of incorporation or articles of organization from the board which shall be renewed in accordance with the provisions of section 327.171 or 327.261 or 327.351, as the case may be, and from and after the date of such certificate of authority and while the authority or a renewal thereof is in effect, may offer and render architectural or professional engineering or professional land surveying **or landscape architectural** services in this state if:

(1) At all times during the authorization or any renewal thereof the directors of the corporation shall have assigned responsibility for the proper conduct of all its architectural or professional engineering or professional land surveying **or landscape architectural** activities in this state to an architect licensed and authorized to practice architecture in this state or to a professional engineer licensed and authorized to practice engineering in this state or to a professional land surveyor licensed and authorized to practice professional land surveying in this state, **or to a landscape architect licensed and authorized to practice landscape architecture in this state,** as the case may be; and

(2) The person or persons who is or are personally in charge and supervises or supervise the architectural or professional engineering or professional land surveying **or landscape architectural** activities, as the case may be, of any such corporation in this state shall be licensed and authorized to practice architecture or professional engineering or professional land surveying **or landscape architecture**, as the case may be, as provided in this chapter; and

(3) The corporation pays such fees for the certificate of authority, renewals or reinstatements thereof as are required.

327.411. PERSONAL SEAL, HOW USED, EFFECT OF. — 1. Each architect and each professional engineer and each professional land surveyor **and each landscape architect** shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee.

2. The personal seal of an architect or professional engineer or professional land surveyor **or landscape architect** shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering **[**or**],** surveying**, or landscape architectural** documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any architectural or engineering project **[**or**],** survey**, or landscape architectural project**.

3. Any architect, professional engineer **[**or**],** professional land surveyor**, or landscape architect** may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or instruments relating to or intended to be used for any part or parts of the architectural or engineering project or survey **or landscape architectural project**.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.

327.172. INACTIVE LICENSE STATUS GRANTED, WHEN, PROCEDURE — RETURN TO ACTIVE STATUS, PROCEDURE. — **1. An architect licensed in this state may apply to the board for 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 shall not offer or practice architecture within this state, but may continue to use the title "architect".**

2. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of such intention, by paying appropriate fees as determined by the board, and by meeting all established requirements of the board including the demonstration of current knowledge, competency, and skill in the practice of architecture as a condition of reinstatement.

3. In the event an inactive licensee does not maintain a current license in any state for a five-year period immediately prior to requesting reinstatement, that person may be required to take an examination as the board deems necessary to determine such person's qualifications. Such examination shall cover areas designed to demonstrate the proficiency in current methods of architecture.

337.030. LICENSE RENEWAL, REGISTRATION FEE, PROOF OF COMPLIANCE — LATE REGISTRATION, PENALTY — LOST CERTIFICATE, HOW REPLACED — FEES, AMOUNT, HOW SET — INACTIVE LICENSE ISSUED, WHEN. — 1. Each psychologist licensed pursuant to the provisions of sections 337.010 to 337.090, who has not filed with the committee a verified statement that the psychologist has retired from or terminated the psychologist's practice of psychology in this state, shall register with the division on or before the registration renewal date.

The division shall require a registration fee which shall be submitted together with proof of compliance with the continuing education requirement as provided in section 337.050 and any other information required for such registration. Upon receipt of the required material and of the registration fee, the division shall issue a renewal certificate of registration. The division shall, when issuing an initial license to an applicant who has met all of the qualifications of sections 337.010 to 337.093 and has been approved for licensure by the committee shall grant the applicant, without payment of any further fee, a certificate of registration valid until the next registration renewal date.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the registration renewal date. Failure to provide the division with the proof of compliance with the continuing education requirement and other information required for registration, or to pay the registration fee after such notice shall effect a revocation of the license after a period of sixty days from the registration renewal date. The license shall be restored if, within two years of the registration renewal date, the applicant provides written application and the payment of the registration fee and a delinquency fee and proof of compliance with the requirements for continuing education as provided in section 337.050.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a reasonable fee.

4. The committee shall set the amount of the fees authorized by sections 337.010 to 337.093 and required by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 337.010 to 337.090.

5. The committee is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established by the committee. An inactive license may be issued only to a person who has previously been issued a license to practice psychology in this state, who is no longer regularly engaged in such practice and who does not hold himself or herself out to the public as being professionally engaged in such practice in this state. Each inactive license shall be subject to all provisions of this chapter, except as otherwise specifically provided. Each inactive license may be renewed by the committee subject to all provisions of this section and all other provisions of this chapter. The inactive licensee shall not be required to submit evidence of completion of continuing education as required by this chapter. An inactive licensee may apply for a license to regularly engage in the practice of psychology upon filing a written application on a form provided by the committee, submitting the reactivation fee established by the committee, and submitting proof of current competency as established by the committee.

Approved July 11, 2003

SB 492 [SB 492]

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 registration of a commercial interior designer.

AN ACT to repeal section 324.409, RSMo, and to enact in lieu thereof one new section relating to commercial interior designers.

SECTION

A. Enacting clause.
324.409. Qualifications for registration.

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

SECTION A. ENACTING CLAUSE. — Section 324.409, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 324.409, to read as follows:

324.409. QUALIFICATIONS FOR REGISTRATION. — 1. To be a registered commercial interior designer, a person:

(1) Shall take and pass or have passed the examination administered by the National Council for Interior Design Qualification or an equivalent examination approved by the council. In addition to proof of passage of the examination, the application shall provide substantial evidence to the council that the applicant:

(a) Is a graduate of a five-year or four-year interior design program from an accredited institution and has completed at least two years of diversified and appropriate interior design experience; or

(b) Has completed at least three years of an interior design curriculum from an accredited institution and has completed at least three years of diversified and appropriate interior design experience; or

(c) Is a graduate of a two-year interior design program from an accredited institution and has completed at least four years of diversified and appropriate interior design experience; **or**

(2) **[**Within twenty-four months of August 28, 1998, a person may qualify for registration by providing substantial evidence to the council that the applicant:

(a) Has passed the full examination administered by the National Council for Interior Design Qualification or an equivalent state examination approved by the council and has a minimum of six years of interior design experience acceptable to the council;

(b) Has passed or intends to take and pass within the next twelve months the building and barrier-free portion of the examination administered by the National Council for Interior Design Qualification or an equivalent state codes examination approved by the council and has provided satisfactory evidence of having used or been identified by the title, interior designer, and has diversified and appropriate experience totaling a minimum of ten years; or

(c) Has taken and passed the building and barrier-free portion of the examination administered by the National Council for Interior Design Qualification or an equivalent state codes examination approved by the council, and has passed the American Institute of Interior Designers accreditation examination; or

(3)**]** May qualify who is currently registered pursuant to sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture and registered with the council. Such applicant shall give authorization to the council in order to verify current registration with sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture.

2. Verification of experience required pursuant to this section shall be based on a minimum of five client references, business or employment verification and five industry references, submitted to the council.

3. The council shall verify if an applicant has complied with the provisions of this section and has paid the required fees, then the council shall recommend such applicant be registered as a registered commercial interior designer by the council.

Approved June 19, 2003

SB 504 [HCS SB 504]

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

Enables a satellite enterprise zone in Springfield.

AN ACT to repeal section 135.207, RSMo, and to enact in lieu thereof one new section relating to satellite enterprise zones.

SECTION
A. Enacting clause.
135.207. Satellite zones may be established in certain cities or villages, requirements.

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

SECTION A. ENACTING CLAUSE. — Section 135.207, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.207, to read as follows:

135.207. SATELLITE ZONES MAY BE ESTABLISHED IN CERTAIN CITIES OR VILLAGES, REQUIREMENTS. — 1. (1) Any city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any city not within a county, which includes an existing state designated enterprise zone within the corporate limits of the city may each, upon approval of the local governing authority of the city and the director of the department of economic development, designate up to three satellite zones within its corporate limits. A prerequisite for the designation of a satellite zone shall be the approval by the director of a plan submitted by the local governing authority of the city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(2) Any Missouri community classified as a village whose borders lie adjacent to a city with a population in excess of three hundred fifty thousand inhabitants as described in subdivision (1) of this subsection, and which has within the corporate limits of the village a factory, mining operation, office, mill, plant or warehouse which has at least three thousand employees and has an investment in plant, machinery and equipment of at least two hundred million dollars may, upon securing approval of the director and the local governing authorities of the village and the adjacent city which contains an existing state designated enterprise zone, designate one satellite zone to be located within the corporate limits of the village, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(3) Any geographical area partially contained within any city not within a county and partially contained within any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, which area is comprised of a total population of at least four thousand inhabitants but not more than seventy-two thousand inhabitants, and which area consists of at least one fourth class city, and has within its boundaries a military reserve facility and a utility pumping station having a capacity of ten million cubic feet, may, upon securing approval of the director and the appropriate local governing authorities as provided for in section 135.210, be designated as a satellite zone, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(4) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants which includes an existing state designated enterprise zone with the corporate limits of the city may, upon approval of the governing authority of the city and the director of the department of economic development, designate one satellite zone within its corporate limits. No satellite zone shall be designated pursuant to this subdivision until the governing authority of the city submits a plan

describing how the satellite zone corresponds to the city's overall enterprise zone strategy and the director approves the plan.

2. For satellite zones designated pursuant to the provisions of subdivisions (1) and (3) of subsection 1 of this section, the satellite zones, in conjunction with the existing state-designated enterprise zone shall meet the following criteria:

(1) The area is one of pervasive poverty, unemployment, and general distress, or one in which a large number of jobs have been lost, a large number of employers have closed, or in which a large percentage of available production capacity is idle. For the purpose of this subdivision, "large number of jobs" means one percent or more of the area's population according to the most recent decennial census, and "large number of employers" means over five;

(2) At least fifty percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the last decennial census or other appropriate source as approved by the director;

(3) The resident population of the existing state designated enterprise zone and its satellite zones must be at least four thousand but not more than seventy-two thousand at the time of designation;

(4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than sixty percent of the statewide percentage of residents employed on a full-time basis.

3. A qualified business located within a satellite zone shall be subject to the same eligibility criteria and can be eligible to receive the same benefits as a qualified facility in sections 135.200 to 135.255.

Approved July 7, 2003

SB 506 [SB 506]

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

Includes the use of lasers within the definition of dentistry.

AN ACT to repeal section 332.071, RSMo, and to enact in lieu thereof one new section relating to the use of lasers for dentistry.

SECTION
A. Enacting clause.
332.071. Practice of dentistry defined.

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

SECTION A. ENACTING CLAUSE. — Section 332.071, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 332.071, to read as follows:

332.071. PRACTICE OF DENTISTRY DEFINED. — A person or other entity "practices dentistry" within the meaning of this chapter who:

(1) Undertakes to do or perform dental work or dental services or dental operations or oral surgery, by any means or methods, **including the use of lasers,** gratuitously or for a salary or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

(2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions of the oral regions;

(3) Attempts to or does replace or restore a part or portion of a human tooth;

(4) Attempts to or does extract human teeth or attempts to or does correct malformations of human teeth or jaws;

(5) Attempts to or does adjust an appliance or appliances for use in or used in connection with malposed teeth in the human mouth;

(6) Interprets or professes to interpret or read dental radiographs;

(7) Administers an anesthetic in connection with dental services or dental operations or dental surgery;

(8) Undertakes to or does remove hard and soft deposits from or polishes natural and restored surfaces of teeth;

(9) Uses or permits to be used for the person's benefit or for the benefit of any other person or other entity the following titles or words in connection with the person's name: "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or descriptive matter which directly or indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's benefit or for the benefit of any other person or other entity any card, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person;

(10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an office or establishment of any kind in which dental services or dental operations of any kind are performed for any purpose; but this section shall not be construed to prevent owners or lessees of real estate from lawfully leasing premises to those who are qualified to practice dentistry within the meaning of this chapter;

(11) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except when one, not a registered and licensed dentist, does so pursuant to a written uniform laboratory work order, in the form to be prescribed by the board and copies of which shall be retained by the nondentist for two years, of a dentist registered and currently licensed in Missouri and which the substitute in this subdivision described is constructed upon or by use of casts or models made from an impression furnished by a dentist registered and currently licensed in Missouri;

(12) Attempts to or does place any substitute described in subdivision (11) of this section in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute to any person other than the dentist upon whose order the work in producing the substitute was performed;

(13) Advertises, solicits, or offers to or does sell or deliver any substitute described in subdivision (11) of this section or offers to or does sell the person's services in constructing, reproducing, supplying or repairing the substitute to any person other than a registered and licensed dentist in Missouri;

(14) Undertakes to do or perform any physical evaluation of a patient in the person's office or in a hospital, clinic, or other medical or dental facility prior to or incident to the performance of any dental services, dental operations, or dental surgery.

Approved June 19, 2003

SB 511 [SB 511]

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

Establishes the Joint Committee on the Life Sciences.

AN ACT to amend chapter 21, RSMo, by adding thereto one new section relating to the joint committee on the life sciences.

SECTION
A. Enacting clause.
21.805. Joint committee on the life sciences established, members, appointment, duties, meetings, report.

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

SECTION A. ENACTING CLAUSE. — Chapter 21, RSMo, is amended by adding thereto one new section, to be known as section 21.805, to read as follows:

21.805. JOINT COMMITTEE ON THE LIFE SCIENCES ESTABLISHED, MEMBERS, APPOINTMENT, DUTIES, MEETINGS, REPORT. — 1. There is hereby established a joint committee of the general assembly to be known as the "Joint Committee on the Life Sciences" 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 the minority floor leader of the senate, and the house members of the joint committee shall be appointed by the speaker and the minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office 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 or more than four members from the senate. A majority of the joint 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 joint committee's duties.

2. The joint committee shall be charged with making recommendations to the full general assembly in the following areas:

(1) Legislative implementation of Missouri's strategic plan for life sciences, or successor plans;

(2) Executive branch actions and policies necessary to nurture and support life sciences research and commercialization;

(3) State investments necessary to nurture and support life sciences research and commercialization;

(4) Changes necessary in Missouri's tax system to nurture and support life sciences research and commercialization;

(5) Laws and policies necessary to eliminate barriers to life sciences research and commercialization and to encourage the start-up of new life sciences companies in Missouri;

(6) Laws and policies necessary to encourage the retention and recruitment of existing life sciences companies in Missouri;

(7) Laws and policies necessary to encourage the recruitment of expert life scientists to Missouri;

(8) Coordination of Missouri's existing scientific resources, including Missouri's colleges and universities; and

(9) Any other legislative action necessary to nurture and support life sciences research and commercialization in Missouri.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The chairpersonship shall alternate between members of the house and senate every two years after the joint committee's organization.

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

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

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

7. The joint committee shall 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 joint committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state departments and agencies included in the report.

8. All state departments, agencies, boards, and commissions shall cooperate with and assist the joint committee in the performance of its duties and shall make available all information requested.

Approved July 11, 2003

SB 513 [SCS SB 513]

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

Removes discretion of board of police commissioners as to paid vacation and holidays in some situations.

AN ACT to repeal section 84.140, RSMo, and to enact in lieu thereof one new section relating to paid vacation of St. Louis City police members.

SECTION
A. Enacting clause.
84.140. Vacations, holidays and off-duty time.

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

SECTION A. ENACTING CLAUSE. — Section 84.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 84.140, to read as follows:

84.140. VACATIONS, HOLIDAYS AND OFF-DUTY TIME. — The boards **[**may**]** **shall** grant every member of the police force who has served for one year or more a total of three weeks vacation each year with pay, and each member of the police force who has served the

department for twelve years or more **[**may**]** **shall** receive four weeks vacation each year with pay, and each member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay; however the board may grant an additional week of paid vacation to members after one year of service. All members of the police force **[**may**]** **shall** receive fifteen holidays with pay, however the board may grant additional holidays with pay, and one hundred four days off duty each year with pay, and the boards may from time to time grant additional days off duty each year with pay when in the judgment of the boards, the granting thereof will not materially impair the efficiency of the department.

Approved July 1, 2003

SB 522 [SB 522]

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

Provides an additional rate for the capital improvement sales tax.

AN ACT to repeal section 67.700, RSMo, and to enact in lieu thereof one new section relating to sales tax for capital improvements imposed in certain counties.

SECTION

A. Enacting clause.

67.700. Sales tax for capital improvements may be imposed in certain counties, procedure — use of revenue — tax effective when — brackets to be established — rate of tax — sales tax revenue collected, defined.

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

SECTION A. ENACTING CLAUSE. — Section 67.700, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.700, to read as follows:

67.700. SALES TAX FOR CAPITAL IMPROVEMENTS MAY BE IMPOSED IN CERTAIN COUNTIES, PROCEDURE — USE OF REVENUE — TAX EFFECTIVE WHEN — BRACKETS TO BE ESTABLISHED — RATE OF TAX — SALES TAX REVENUE COLLECTED, DEFINED. — 1. Any county, as defined in section 67.724, may, by ordinance or order, impose a sales tax on all retail sales made in such county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for any capital improvement purpose designated by the county in its ballot of submission to its voters; provided, however, that no ordinance or order enacted pursuant to the authority granted by sections 67.700 to 67.727 shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary, or special election, a proposal to authorize the governing body of the county to impose a tax under the provisions of sections 67.700 to 67.727. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law.

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

Shall the county of ..... (county's name) impose a countywide sales tax at the rate of ..... (insert amount) for a period of ..... (insert number) years from the date on which such tax is first imposed for the purpose of ..... (insert capital improvement purpose)?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the sales tax authorized by sections 67.700 to 67.727 unless and until the governing body of the county shall again have submitted another proposal to authorize it to impose the sales tax under the provisions of sections 67.700 to 67.727 and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by a county from the tax authorized by sections 67.700 to 67.727 which has been designated for a certain capital improvement purpose shall be deposited in a special trust fund and shall be used solely for such designated purpose. Upon the expiration of the period of years approved by the voters under subsection 2 of this section or if the tax authorized by sections 67.700 to 67.727 is repealed under section 67.721, all funds remaining in the special trust fund shall continue to be used solely for such designated capital improvement purpose including the payment of principal and interest on any bonds issued to pay for such capital improvement. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

4. The sales tax may be imposed at a rate of one-eighth of one percent, **one-fifth of one percent,** one-fourth of one percent, three-eighths of one percent, or one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo.

5. In addition to the rates provided in subsection 4 of this section, any county of the first class without a charter form of government which adjoins a county of the first class containing part of a city containing more than three hundred fifty thousand inhabitants and which also adjoins a county of the third class having a township form of government shall also be authorized to (1) levy such sales tax at a rate of one-eighth of one percent; or (2) levy such sales tax at a rate of one-fourth of one percent in conjunction with a reduction in its property tax levy or levies for general revenues or for funding the maintenance of roads and bridges, or both, for each year in which the sales tax is imposed. Such reduction shall be in an amount sufficient to decrease the property taxes it will collect by not less than fifty percent of the sales tax revenue collected in the tax year for which the property taxes are being levied. If in the immediately preceding year a county actually collected less sales tax revenue than was projected for purposes of reducing its property tax levy or levies, the county shall adjust its property tax levy or levies for the current year to reflect such decrease. Any such county seeking voter approval of the sales tax alternative authorized in this subsection shall include in the ballot of submission authorized in subsection 2 of this section language clearly stating the appropriate percentage of the sales tax revenue shall be used for property tax reduction as provided herein. For purposes of this subsection, the term "sales tax revenue collected" shall have the meaning provided in section 67.500.

Approved July 9, 2003

SB 529 [SB 529]

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 railroads within Missouri to be designated by the division of tourism as official state railroads.

AN ACT to amend chapter 389, RSMo, by adding thereto one new section relating to the designation of official Missouri railroads.

SECTION
A. Enacting clause.
389.1020. Official Missouri railroad, when designated.

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

SECTION A. ENACTING CLAUSE. — Chapter 389, RSMo, is amended by adding thereto one new section, to be known as section 389.1020, to read as follows:

389.1020. OFFICIAL MISSOURI RAILROAD, WHEN DESIGNATED. — Any railroad which transverses the boundaries of Missouri and is domiciled within Missouri may be designated by the division of tourism as an official Missouri railroad.

Approved May 30, 2003

SB 534 [SB 534]

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

Includes definitions for protective oversight and voluntary leave in the Omnibus Nursing Home Act.

AN ACT to repeal section 198.006, RSMo, and to enact in lieu thereof one new section relating to supervision in nursing homes.

SECTION
A. Enacting clause.
198.006. Definitions.

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

SECTION A. ENACTING CLAUSE. — Section 198.006, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 198.006, to read as follows:

198.006. DEFINITIONS. — As used in sections 198.003 to 198.186, unless the context clearly indicates otherwise, the following terms mean:

(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;

(2) "Administrator", the person who is in general administrative charge of a facility;

(3) "Affiliate":

(a) With respect to a partnership, each partner thereof;

(b) With respect to a limited partnership, the general partner and each limited partner with an interest of five percent or more in the limited partnership;

(c) With respect to a corporation, each person who owns, holds or has the power to vote, five percent or more of any class of securities issued by the corporation, and each officer and director;

(d) With respect to a natural person, any parent, child, sibling, or spouse of that person;

(4) "Department", the Missouri department of social services;

(5) "Emergency", a situation, physical condition or one or more practices, methods or operations which presents imminent danger of death or serious physical or mental harm to residents of a facility;

(6) "Facility", any residential care facility I, residential care facility II, immediate care facility, or skilled nursing facility;

(7) "Health care provider", any person providing health care services or goods to residents and who receives funds in payment for such goods or services under Medicaid;

(8) "Intermediate care facility", any premises, other than a residential care facility I, residential care facility II, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four hour accommodation, board, personal care, and basic health and nursing care services under the daily supervision of a licensed nurse and under the direction of a licensed physician to three or more residents dependent for care and supervision and who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility;

(9) "Manager", any person other than the administrator of a facility who contracts or otherwise agrees with an owner or operator to supervise the general operation of a facility, providing such services as hiring and training personnel, purchasing supplies, keeping financial records, and making reports;

(10) "Medicaid", medical assistance under section 208.151, RSMo, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301 et seq.), as amended;

(11) "Neglect", the failure to provide, by those responsible for the care, custody, and control of a resident in a facility, the services which are reasonable and necessary to maintain the physical and mental health of the resident, when such failure presents either an imminent danger to the health, safety or welfare of the resident or a substantial probability that death or serious physical harm would result;

(12) "Operator", any person licensed or required to be licensed under the provisions of sections 198.003 to 198.096 in order to establish, conduct or maintain a facility;

(13) "Owner", any person who owns an interest of five percent or more in:

(a) The land on which any facility is located;

(b) The structure or structures in which any facility is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure in or on which a facility is located; or

(d) Any lease or sublease of the land or structure in or on which a facility is located.

"Owner" does not include a holder of a debenture or bond purchased at public issue nor does it include any regulated lender unless the entity or person directly or through a subsidiary operates a facility;

(14) **"Protective oversight", an awareness twenty-four hours a day of the location of a resident, the ability to intervene on behalf of the resident, the supervision of nutrition, medication, or actual provisions of care, and the responsibility for the welfare of the resident, except where the resident is on voluntary leave;**

(15) "Resident", a person who by reason of aging, illness, disease, or physical or mental infirmity receives or requires care and services furnished by a facility and who resides or boards in or is otherwise kept, cared for, treated or accommodated in such facility for a period exceeding twenty-four consecutive hours;

[(15)**]** **(16)** "Residential care facility I", any premises, other than a residential care facility II, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour care to three or more residents, who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation;

[(16)**]** **(17)** "Residential care facility II", any premises, other than a residential care facility I, an intermediate care facility, or a skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour accommodation, board, and care to three or more residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility, and who need or are provided with supervision of diets, assistance in personal care, storage and distribution or administration of medications, supervision of health care under the direction of a licensed physician, and protective oversight, including care during short-term illness or recuperation;

[(17)**]** **(18)** "Skilled nursing facility", any premises, other than a residential care facility I, a residential care facility II, or an intermediate care facility, which is utilized by its owner, operator or manager to provide for twenty-four hour accommodation, board and skilled nursing care and treatment services to at least three residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four hours a day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill;

[(18)**]** **(19)** "Vendor", any person selling goods or services to a health care provider**;**

(20) "Voluntary leave", an off-premise leave initiated by:

(a) A resident that has not been declared mentally incompetent or incapacitated by a court; or

(b) A legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.

Approved July 1, 2003

SB 537 [SB 537]

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

Authorizes Boone County Counselor to prosecute certain actions resulting in civil fines.

AN ACT to repeal section 56.640, RSMo, and to enact in lieu thereof two new sections relating to the duties of a county counselor.

SECTION

A. Enacting clause.
49.272. County counselor may impose fine for certain violations of rules, regulations or ordinances, amount (Boone County).
56.640. County counselor and assistants, duties of (certain first class counties).

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

SECTION A. ENACTING CLAUSE. — Section 56.640, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 49.272 and 56.640, to read as follows:

49.272. COUNTY COUNSELOR MAY IMPOSE FINE FOR CERTAIN VIOLATIONS OF RULES, REGULATIONS OR ORDINANCES, AMOUNT (BOONE COUNTY). — The county commission of any county of the first classification without a charter form of government and with more

than one hundred thirty-five thousand four hundred but less than one hundred thirty-five thousand five hundred inhabitants which has an appointed county counselor and which adopts or has adopted rules, regulations or ordinances under authority of a statute which prescribes or authorizes a violation of such rules, regulations or ordinances to be a misdemeanor punishable as provided by law, may by rule, regulation or ordinance impose a civil fine not to exceed one thousand dollars for each violation. Any fines imposed and collected under such rules, regulations or ordinances shall be payable to the county general fund to be used to pay for the cost of enforcement of such rules, regulations or ordinances.

56.640. COUNTY COUNSELOR AND ASSISTANTS, DUTIES OF (CERTAIN FIRST CLASS COUNTIES). — 1. If a county counselor is appointed, he and his assistants under his direction shall represent the county and all departments, officers, institutions and agencies thereof, except as otherwise provided by law and shall upon request of any county department, officer, institution or agency for which legal counsel is otherwise provided by law, and upon the approval of the county commission, represent such department, officer, institution or agency. He shall commence, prosecute or defend, as the case may require, and exercise exclusive authority in all civil suits or actions in which the county or any county officer, commission or agency is a party, in his or its official capacity, he shall draw all contracts relating to the business of the county, he shall represent the county generally in all matters of civil law, and he shall upon request furnish written opinions to any county officer or department.

2. In all cases in which a civil fine may be imposed pursuant to section 49.272, RSMo, it shall be the duty of the county counselor, rather than the county prosecuting attorney, to prosecute such violations in the associate division of the circuit court in the county where the violation occurred.

3. Notwithstanding any law to the contrary, the county counselor in any county of the first classification and the prosecuting attorney of such county may by mutual cooperation agreement prosecute or defend any civil action which the prosecuting attorney or county counselor of the county is authorized or required by law to prosecute or defend.

Approved July 9, 2003

SB 540 [SB 540]

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 number of microbrewer licenses available to an individual and his agents.

AN ACT to repeal section 311.195, RSMo, and to enact in lieu thereof one new section relating to microbreweries.

SECTION

A. Enacting clause.

311.195. Microbrewery, defined — license, fee — retail license allowed, procedure — sale to wholesalers allowed, when — certain exemptions, when.

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

SECTION A. ENACTING CLAUSE. — Section 311.195, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 311.195, to read as follows:

311.195. MICROBREWERY, DEFINED — LICENSE, FEE — RETAIL LICENSE ALLOWED, PROCEDURE — SALE TO WHOLESALERS ALLOWED, WHEN — CERTAIN EXEMPTIONS, WHEN. — 1. As used in this section, the term "microbrewery" means a business whose primary activity is the brewing and selling of beer, with an annual production of ten thousand barrels or less.

2. A microbrewer's license shall authorize the licensee to manufacture beer and malt liquor in quantities not to exceed ten thousand barrels per annum. In lieu of the charges provided in section 311.180, a license fee of five dollars for each one hundred barrels or fraction thereof, up to a maximum license fee of two hundred fifty dollars, shall be paid to and collected by the director of revenue.

3. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, the holder of a microbrewer's license may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on the **[**brewery**]** premises **[**and in the original package for off-premises consumption**]**. **No holder of a microbrewer's license, or any employee, officer, agent, subsidiary, or affiliate thereof, shall have more than ten licenses to sell intoxicating liquor by the drink at retail for consumption on the premises.** The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, 311.095, or 311.097.

4. The holder of a microbrewer's license may also sell beer and malt liquor produced on the brewery premises to duly licensed wholesalers. However, holders of a microbrewer's license shall not, under any circumstances, directly or indirectly, have any financial interest in any wholesaler's business, and all such sales to wholesalers shall be subject to the restrictions of sections 311.181 and 311.182.

5. A microbrewer who is a holder of a license to sell intoxicating liquor by the drink at retail for consumption on the premises shall be exempt from the provisions of section 311.280, for such intoxicating liquor that is produced on the premises in accordance with the provisions of this chapter. For all other intoxicating liquor sold by the drink at retail for consumption on the premises that the microbrewer possesses a license for, must be obtained in accordance with section 311.280.

Approved July 11, 2003

SB 546 [SCS SB 546]

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

Allows Johnson County to adopt and impose landfill fees.

AN ACT to repeal sections 260.830 and 260.831, RSMo, and to enact in lieu thereof two new sections relating to landfill fees in Johnson County.

SECTION

A. Enacting clause.
260.830. Landfill fee authorized, counties of third and fourth classification — approval, ballot, limitation.
260.831. Collection of fee by operator, payment required — separate surcharge, transmittal of funds.

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

SECTION A. ENACTING CLAUSE. — Sections 260.830 and 260.831, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 260.830 and 260.831, to read as follows:

260.830. LANDFILL FEE AUTHORIZED, COUNTIES OF THIRD AND FOURTH CLASSIFICATION — APPROVAL, BALLOT, LIMITATION. — 1. Any county of the third classification **or any county of the second classification with more than forty-eight thousand two hundred but less than forty-eight thousand three hundred inhabitants** may, by a majority vote of its governing body, impose a landfill fee pursuant to sections 260.830 and 260.831, for the benefit of the county. No order or ordinance enacted pursuant to the authority granted by this section shall be effective unless the governing body of the county submits to the qualified voters of the county, at a public election, a proposal to authorize the governing body of the county to impose a fee under the provisions of this section. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a landfill fee of ..... (insert amount of fee per ton or volumetric equivalent of solid waste)?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the order or ordinance and any amendments thereto shall become effective on the first day of the calendar quarter immediately after such election results are certified. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the fee authorized by this section unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to impose such fee, and the proposal is approved by a majority of the qualified voters voting thereon. If an economic development authority does not exist in a county at the time that a landfill fee is adopted by such county under this section, then the governing body of such county shall establish an economic development authority in the county.

2. The landfill fee authorized by such an election may not exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted, which charge may be in addition to any such fee currently imposed pursuant to the provisions of section 260.330.

260.831. COLLECTION OF FEE BY OPERATOR, PAYMENT REQUIRED — SEPARATE SURCHARGE, TRANSMITTAL OF FUNDS. — 1. Each operator of a solid waste sanitary or demolition landfill in any county wherein a landfill fee has been approved by the voters pursuant to section 260.830 shall collect a charge equal to the charge authorized by the voters in such election, not to exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be collected in addition to any fee authorized or imposed pursuant to the provisions of section 260.330, and shall be paid to such operator by all political subdivisions, municipalities, corporations, entities or persons disposing of solid waste or demolition waste, whether pursuant to contract or otherwise, and notwithstanding that any such contract may provide for collection, transportation and disposal of such waste at a fixed fee. Any such contract providing for collections, transportation and disposal of such waste at a fixed fee which is in force on August 28, **[**1993**]** **2003**, shall be renegotiated by the parties to the contract to include the additional fee imposed by this section. Each such operator shall submit the charge, less collection costs, to the governing body of the county, which shall dedicate such funds for use by the industrial development authority within the county and such funds shall be used by the authority for economic development within the county. Collection costs shall be the same as established by the department of natural resources pursuant to section 260.330, and shall not exceed two percent of the amount collected pursuant to this section.

2. The charges established in this section shall be enumerated separately from any disposal fee charged by the landfill. After January 1, 1994, the fee authorized under section 260.830 and this section shall be stated as a separate surcharge on each individual solid waste collection customer's invoice and shall also name the economic development authority which receives the funds. Moneys transmitted to the governing body of the county shall be no less than the amount collected less collection costs and in a form, manner and frequency as the governing body may prescribe. Failure to collect such charge shall not relieve the operator from responsibility for transmitting an amount equal to the charge to the governing body.

Approved June 9, 2003

SB 547 [HCS SCS SB 547]

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

Modifies pay schedules for certain county clerks and treasurers.

AN ACT to repeal section 54.261, RSMo, and to enact in lieu thereof two new sections relating to compensation for certain county treasurers.

SECTION
- A. Enacting clause.
- 54.261. Compensation — training program, attendance required, when, expenses, compensation (second, third and fourth class counties and Clay County).
- 1. Cole County salary commission authorized to equalize salaries on a one-time basis.

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

SECTION A. ENACTING CLAUSE. — Section 54.261, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 54.261 and 1, to read as follows:

54.261. COMPENSATION — TRAINING PROGRAM, ATTENDANCE REQUIRED, WHEN, EXPENSES, COMPENSATION (SECOND, THIRD AND FOURTH CLASS COUNTIES AND CLAY COUNTY). — 1. The county treasurer in counties of the first classification, not having a charter form of government and containing a portion of a city with a population of three hundred thousand or more, and in counties of the second, third and fourth classifications of this state, shall receive as compensation for services performed by the treasurer an annual salary based upon the assessed valuation of the county. The provisions of this section shall not permit or require a reduction, nor shall require an increase, in the amount of compensation being paid for the office of treasurer on January 1, 2002.

2. The amount of salary based upon assessed valuation shall be computed according to the following schedule:

[Assessed Valuation	Salary
$ 18,000,000 to 40,999,999	$21,460
41,000,000 to 53,999,999	22,200
54,000,000 to 65,999,999	23,680
66,000,000 to 85,999,999	25,160
86,000,000 to 99,999,999	26,640
100,000,000 to 130,999,999	28,120
131,000,000 to 159,999,999	29,600

160,000,000 to 189,999,999	30,340
190,000,000 to 249,999,999	30,710
250,000,000 to 299,999,999	31,820
300,000,000 or more	33,300

3. In lieu of the salary schedule listed in subsection 2 of this section, the salary commission may authorize a salary schedule that exceeds the schedule in subsection 2 of this section, but such schedule shall not exceed the following:**]**

Assessed Valuation	Salary
$ 18,000,000 to 40,999,999	$29,000
41,000,000 to 53,999,999	30,000
54,000,000 to 65,999,999	32,000
66,000,000 to 85,999,999	34,000
86,000,000 to 99,999,999	36,000
100,000,000 to 130,999,999	38,000
131,000,000 to 159,999,999	40,000
160,000,000 to 189,999,999	41,000
190,000,000 to 249,999,999	41,500
250,000,000 to 299,999,999	43,000
300,000,000 or more	45,000

[4.**]** **3.** Two thousand dollars of the salary authorized in this section shall be payable to the treasurer only if the treasurer has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the treasurer's office when approved by a professional association of the county treasurers or county collectors of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each treasurer who completes the training program and shall send a list of certified treasurers to the county commission of each county. Expenses incurred for attending the training session may be reimbursed to the county treasurer in the same manner as other expenses as may be appropriated for that purpose.

[5.**]** **4.** The county treasurer in any county, other than a county of the first classification having a charter form of government or a county of the first classification not having a charter form of government and not containing any part of a city with a population of three hundred thousand or more, shall not, except upon two-thirds vote of all the members of the commission, receive an annual compensation in an amount less than the total compensation being received for the office of county treasurer in the particular county for services rendered or performed on the date the salary commission votes.

[6.**]** **5.** In the event of a vacancy in the office of treasurer in any county except a county of the first classification with a charter form of government, when there is no deputy treasurer, the county commission shall appoint a qualified acting treasurer until such time as the vacancy is filled by the governor pursuant to section 105.030, RSMo.

SECTION 1. COLE COUNTY SALARY COMMISSION AUTHORIZED TO EQUALIZE SALARIES ON A ONE-TIME BASIS. — In any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, the salary commission at its meeting in 2003 and at any meeting held in 2004, may equalize the base salary for each office to an amount not greater than that set by law as the maximum compensation. Nothing in this section shall be construed to prevent offices which have additional compensation specified in law from receiving such compensation or from having such compensation added to the base compensation in excess of the equalized salary.

Approved July 1, 2003

SB 548 [SB 548]

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

Requires annual report by the Joint Committee on Legislative Research listing statutes expiring within the next two years.

AN ACT to amend chapter 23, RSMo, by adding thereto one new section relating to the joint committee on legislative research.

SECTION
A. Enacting clause.
23.205. Annual report by committee on laws which expire, sunset, terminate or become ineffective in two years.

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

SECTION A. ENACTING CLAUSE. — Chapter 23, RSMo, is amended by adding thereto one new section, to be known as section 23.205, to read as follows:

23.205. ANNUAL REPORT BY COMMITTEE ON LAWS WHICH EXPIRE, SUNSET, TERMINATE OR BECOME INEFFECTIVE IN TWO YEARS. — The joint committee on legislative research shall file a report with the general assembly by January third, of each year which provides a detailed listing of all statutes which expire, sunset, terminate, or otherwise become ineffective by their own provisions within the next two years.

Approved June 9, 2003

SB 552 [CCR#2 HCS SB 552]

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 list of property exempt from attachment to clarify that all qualified retirement plans will be exempt.

AN ACT to repeal section 513.430, RSMo, and to enact in lieu thereof one new section relating to property exempt from attachment.

SECTION
A. Enacting clause.
513.430. Property exempt from attachment — benefits from certain employee plans, exception — bankruptcy proceeding, fraudulent transfers, exception — construction of section.

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

SECTION A. ENACTING CLAUSE. — Section 513.430, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 513.430, to read as follows:

513.430. PROPERTY EXEMPT FROM ATTACHMENT — BENEFITS FROM CERTAIN EMPLOYEE PLANS, EXCEPTION — BANKRUPTCY PROCEEDING, FRAUDULENT TRANSFERS,

EXCEPTION — CONSTRUCTION OF SECTION. — 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed one thousand dollars in value in the aggregate;

(2) Jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value four hundred dollars in the aggregate;

(4) Any implements, professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed two thousand dollars in value in the aggregate;

(5) Any motor vehicle, not to exceed one thousand dollars in value;

(6) Any mobile home used as the principal residence, not to exceed one thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed five hundred dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any **[**similar**]** plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan **[**which**] or profit-sharing plan that** is qualified under Section **[**401(k), 403(a)(3),**] 401(a), 403(a),** 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

Approved July 3, 2003

SB 555 [CCS HS HCS SS SCS SB 555]

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

Addresses ability of certain aluminum smelters and cities to purchase energy outside of PSC oversight.

AN ACT to repeal section 91.030, RSMo, and to enact in lieu thereof two new sections relating to the supply of electrical power and energy to aluminum smelting facilities, with an emergency clause.

SECTION

A. Enacting clause.
91.026. Aluminum smelting facilities may contract to purchase electric power, no set rates or time periods — definitions — criteria.
91.030. Cities may purchase light and power, and ancillary services.

B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 91.030, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 91.026 and 91.030, to read as follows:

91.026. ALUMINUM SMELTING FACILITIES MAY CONTRACT TO PURCHASE ELECTRIC POWER, NO SET RATES OR TIME PERIODS — DEFINITIONS — CRITERIA. — 1. As used in this section, the following terms mean:

(1) "Commission", the Missouri public service commission;

(2) "Aluminum smelting facility", a facility whose primary industry is the smelting of aluminum and primary metals, Standard Industrial Classification Code 3334, is located in a county of the second classification, which has used over three million megawatt hours of electricity during a calendar year, and has had electrical service provided to said facility in the past, in part or whole, by a municipally owned utility and, in part or whole, by an electric generating cooperative owned by rural electric cooperatives;

(3) "Delivery services", transmission, distribution, or metering of electric power and energy or services ancillary thereto or related services;

(4) "Municipally owned utility", a utility as defined in subdivision (1) of subsection 1 of section 91.025;

(5) "Local electric service utility", an electrical corporation engaged in the furnishing of local electric service to consumers under a certificate of convenience and necessity issued by the commission, any municipal electric distribution system or electric cooperative.

2. Notwithstanding any provisions of law to the contrary, any aluminum smelting facility shall have the right to purchase and contract to purchase electric power and energy and delivery services from any provider, wherever found or located, at whatever rates or charges as contracted for, and such periods or times as is needed or necessary or convenient for the operation of such aluminum smelting facility and for no other purpose, notwithstanding any past circumstances of supply. Any aluminum smelting facility purchasing or contracting to purchase electric power and energy pursuant to this section shall not resell such electric power and energy to any party except the original providers of such electric power and energy.

3. Notwithstanding the provisions of section 91.025, section 393.106, RSMo, and section 394.315, RSMo, to the contrary, any provider of such electric power and energy and delivery services, whether or not otherwise under Missouri regulatory jurisdiction, shall have the right to transact for and sell electric power and energy and delivery services to an aluminum smelting facility. Any transactions or contracts pursuant to this section for electric power and energy and delivery services shall not be subject to the jurisdiction of the commission with regard to the determination of rates.

4. When current electric power and energy is being supplied in part or in whole by a municipally owned utility and in part or whole by an electric generating cooperative owned by rural electric cooperatives and not under any contract authorized pursuant to this section, a replacement contract pursuant to the provisions of subsections 2 and 3 of this section shall provide for all of the electric power and energy and delivery services requirements of the aluminum smelter and shall meet the following criteria:

(1) The aluminum smelting facility's change of supplier shall have no negative financial impact on any past supplier or suppliers or to other electricity customers of such supplier or suppliers;

(2) The supply arrangements made by the aluminum smelting facility when operated in coordination with the local electric infrastructure shall not reduce the reliability of service to other customers or the safety of any person;

(3) The aluminum smelting facility's change of electric supplier shall not cause a reduction in tax revenue to the state of Missouri or any political subdivision;

(4) No billing or metering functions of any municipally owned utility will be changed or affected as a result of a change of electric supplier by such aluminum smelting facility.

5. No local electric service utility provider of electric power and energy or delivery services shall have any obligation to supply or deliver backup, peaking or emergency power to a aluminum smelting facility exercising its rights under this section, nor liability for inability or failure to provide such power, except as may be established by written contract.

6. Once an aluminum smelting facility has purchased electric power pursuant to its rights pursuant to this section, no past supplier of energy and related services shall have any obligation to provide electric power and energy and delivery services to such aluminum smelting facility except as may be established by written contract.

7. The provisions of this section recognize highly unique circumstances of aluminum smelting facilities and are not to be interpreted as condoning or conceding the suitability of retail electric restructuring for any customer or class of customers in the state of Missouri.

91.030. CITIES MAY PURCHASE LIGHT AND POWER, AND ANCILLARY SERVICES. — Any city, town or village in this state, having authority to maintain and operate an electric light and power plant, may procure electric current **and ancillary services** for that purpose from any other city, owning and operating such plant, **or other lawful supplier** and to that end may enter into a contract therefor with such city **or other supplier** having such plant **for such period and upon such terms as may be agreed by the contracting parties solely on the approval by the governing board or council of such municipality owned or operated electric power system or by its duly authorized representative without further regulatory or public approval, notwithstanding any provisions of law to the contrary**.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary in order to ensure the continued operation of certain aluminum smelting facilities in 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 May 22, 2003

SB 556 [HCS SS SS SCS SB 556 & 311]

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

Modifies various provisions relating to the protection of the elderly.

AN ACT to repeal sections 197.725, 198.006, 198.015, 198.022, 198.032, 198.036, 198.067, 198.070, 198.082, 198.086, 198.105, 198.525, 198.526, 198.532, 565.186, 565.188, 570.145, 630.140, 630.165, 630.167, 660.078, 660.250, 660.261, 660.270, 660.300, 660.305, 660.315, 660.317, 660.320, and 660.603, RSMo, and to enact in lieu thereof forty-two new sections relating to the protection of the elderly, with penalty provisions.

SECTION

A. Enacting clause.
197.416. Out-of-state applicants for licensure, compliance history may be requested.
197.478. Home health agency information to be provided on department Internet web site.
197.500. Employee disqualification list to be maintained.
198.006. Definitions.
198.015. License, when required — duration — content — effect of change of ownership — temporary permits — penalty for violation.
198.022. Duty of department on receipt of application — duty upon denial — department may copy records at its expense — removal of records prohibited — inspection, when — court order to inspect — out-of-state applicants, compliance history may be requested.
198.027. On-site revisit not required, when.
198.030. Posting of inspection reports at the facility.
198.032. Records, what confidential, what subject to disclosure — procedure — central registry to receive complaints of abuse and neglect, procedure — hot line caller log to be maintained.
198.036. Revocation of license — grounds — notice required.
198.066. Sanctions for violations authorized.
198.067. Noncompliance with law — injunction, when — civil penalties, how calculated, where deposited.
198.070. Abuse or neglect of residents — reports, when, by whom — contents of report — failure to report, penalty — investigation, referral of complaint, removal of resident — confidentiality of report — immunity, exception — prohibition against retaliation — penalty — employee list — self-reporting of incidents, investigations, when.
198.071. Death of a resident, persons to contact prior to transfer of deceased.
198.082. Nursing assistant training programs — training incomplete, special requirements and supervision for assistant beginning duties.
198.086. Demonstration project, Alzheimer's licensure category — department duties — accommodations for family members.
198.105. Petition for appointment of receiver, contents — hearing — appointment of receiver.
198.301. Whistleblower protection for employees — availability of information on rights of persons retaliated against.
198.428. Medicaid eligibility presumed pending approval or denial of application, when.
198.525. Inspection of certain long-term care facilities, when.
198.526. Biannual inspections — reevaluation of inspection process — reduction in inspection schedule, when — disclosure of inspection schedule limited, penalty for violation.
198.528. Long-term care facility information to be provided on department Internet web site.
198.532. Investigation of complaints — results provided, when.
198.600. Uniform data management pilot program established, purpose, monitoring.
565.186. Investigation of elder abuse — report.
565.188. Report of elder abuse, penalty — false report, penalty — evidence of prior convictions.
570.145. Financial exploitation of the elderly and disabled, penalty — definitions.
630.140. Records confidential, when — may be disclosed, to whom, how, when — release to be documented — court records confidential, exceptions.
630.165. Suspected abuse of patient, report, by whom made, contents — effect of failure to report — penalty.
630.167. Investigation of report, when made, by whom — abuse prevention by removal, procedure — reports confidential, privileged, exceptions — immunity of reporter, notification — retaliation prohibited — administrative discharge of employee, appeal procedure.
660.078. Tax refund credited to home delivered meals trust fund — contributions accepted — director of revenue to transfer contributions, trust fund created — state treasurer to administer fund.
660.250. Definitions.
660.261. Investigations of reports of eligible adults between eighteen and fifty-nine, department procedures.
660.270. Procedure when abuse, neglect or physical harm may be involved — remedies.
660.300. Report of abuse or neglect of in-home services or home health agency client, duty — penalty — contents of report — investigation, procedure — confidentiality of report — immunity — retaliation prohibited, penalty — employee disqualification list — safe-at-home evaluations, procedure.
660.305. In-home services client, misappropriation of property, report — investigation — penalty — confidentiality of report — immunity — retaliation prohibited — employee disqualification list.
660.310. Alteration of in-home services provider agency contracts, procedure — letters of censure — staying of suspensions — appeal process.
660.315. Employee disqualification list, notification of placement, contents — challenge of allegation, procedure — hearing, procedure — appeal — removal of name from list — list provided to whom — prohibition of employment.
660.317. Criminal background checks of employees, required when — persons with criminal history not to be hired, when, penalty — failure to disclose, penalty — definitions — rules to waive hiring restrictions.
660.320. Prohibition against disclosure of reports, exceptions — employment security provided reports upon request.
660.321. Confidentiality of records, records disclosed, when.

660.603. Office of state ombudsman for long-term care facility residents created in department of health and senior services — purpose — powers and duties.
197.725. Necessary provider hospital, defined, license — rules.

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

SECTION A. ENACTING CLAUSE. — Sections 197.725, 198.006, 198.015, 198.022, 198.032, 198.036, 198.067, 198.070, 198.082, 198.086, 198.105, 198.525, 198.526, 198.532, 565.186, 565.188, 570.145, 630.140, 630.165, 630.167, 660.078, 660.250, 660.261, 660.270, 660.300, 660.305, 660.315, 660.317, 660.320, and 660.603, RSMo, are repealed and forty-two new sections enacted in lieu thereof, to be known as sections 197.416, 197.478, 197.500, 198.006, 198.015, 198.022, 198.027, 198.030, 198.032, 198.036, 198.066, 198.067, 198.070, 198.071, 198.082, 198.086, 198.105, 198.301, 198.428, 198.525, 198.526, 198.528, 198.532, 198.600, 565.186, 565.188, 570.145, 630.140, 630.165, 630.167, 660.078, 660.250, 660.261, 660.270, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, and 660.603 to read as follows:

197.416. OUT-OF-STATE APPLICANTS FOR LICENSURE, COMPLIANCE HISTORY MAY BE REQUESTED. — Whenever the department is inspecting a home health agency in response to an application from an applicant located outside of Missouri not previously licensed by the department, the department may request from the applicant the past five years compliance history of all home health agencies owned by the applicant located outside of this state.

197.478. HOME HEALTH AGENCY INFORMATION TO BE PROVIDED ON DEPARTMENT INTERNET WEB SITE. — 1. The department of health and senior services shall provide through their Internet web site:

(1) The most recent survey of all home health agencies and any such findings of deficiencies and the effect the deficiency would have on such agencies. If such survey is in dispute, the survey shall not be posted on the web site until the agency's dispute has been resolved and the department shall, upon request of the home health agency, post the agency's response;

(2) The home health agency's proposed plan of correction;

(3) A link to the federal web site that provides a summary of home health agency surveys conducted over the last three years; and

(4) Information on how to obtain a copy of a complete home health agency survey conducted over the last three years.

2. Nothing in this section shall be construed as requiring the department to post any information on its Internet web site that is prohibited from disclosure pursuant to the federal Health Insurance Portability and Accountability Act, as amended.

197.500. EMPLOYEE DISQUALIFICATION LIST TO BE MAINTAINED. — 1. The department shall maintain an employee disqualification list and place on the employee disqualification list the names of any persons who are or who have been employed by any entity licensed pursuant to this chapter and who have been finally determined by the department pursuant to section 660.315, RSMo, to have knowingly or recklessly abused or neglected a patient. For the purpose of this section, "abuse" and "neglect" shall have the same meanings as such terms are defined in section 198.006, RSMo. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such

disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

2. The department shall compile and maintain an employee disqualification list in the same manner as the employee disqualification list compiled and maintained by the department pursuant to section 660.315, RSMo.

198.006. DEFINITIONS. — As used in sections 198.003 to 198.186, unless the context clearly indicates otherwise, the following terms mean:

(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;

(2) "Administrator", the person who is in general administrative charge of a facility;

(3) "Affiliate":

(a) With respect to a partnership, each partner thereof;

(b) With respect to a limited partnership, the general partner and each limited partner with an interest of five percent or more in the limited partnership;

(c) With respect to a corporation, each person who owns, holds or has the power to vote, five percent or more of any class of securities issued by the corporation, and each officer and director;

(d) With respect to a natural person, any parent, child, sibling, or spouse of that person;

(4) "Department", the Missouri department of **[**social services**] health and senior services**;

(5) "Emergency", a situation, physical condition or one or more practices, methods or operations which presents imminent danger of death or serious physical or mental harm to residents of a facility;

(6) "Facility", any residential care facility I, residential care facility II, immediate care facility, or skilled nursing facility;

(7) "Health care provider", any person providing health care services or goods to residents and who receives funds in payment for such goods or services under Medicaid;

(8) "Intermediate care facility", any premises, other than a residential care facility I, residential care facility II, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four hour accommodation, board, personal care, and basic health and nursing care services under the daily supervision of a licensed nurse and under the direction of a licensed physician to three or more residents dependent for care and supervision and who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility;

(9) "Manager", any person other than the administrator of a facility who contracts or otherwise agrees with an owner or operator to supervise the general operation of a facility, providing such services as hiring and training personnel, purchasing supplies, keeping financial records, and making reports;

(10) "Medicaid", medical assistance under section 208.151, RSMo, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301 et seq.), as amended;

(11) "Neglect", the failure to provide, by those responsible for the care, custody, and control of a resident in a facility, the services which are reasonable and necessary to maintain the physical and mental health of the resident, when such failure presents either an imminent danger to the health, safety or welfare of the resident or a substantial probability that death or serious physical harm would result;

(12) "Operator", any person licensed or required to be licensed under the provisions of sections 198.003 to 198.096 in order to establish, conduct or maintain a facility;

(13) "Owner", any person who owns an interest of five percent or more in:

(a) The land on which any facility is located;

(b) The structure or structures in which any facility is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure in or on which a facility is located; or

(d) Any lease or sublease of the land or structure in or on which a facility is located. "Owner" does not include a holder of a debenture or bond purchased at public issue nor does it include any regulated lender unless the entity or person directly or through a subsidiary operates a facility;

(14) "Resident", a person who by reason of aging, illness, disease, or physical or mental infirmity receives or requires care and services furnished by a facility and who resides or boards in or is otherwise kept, cared for, treated or accommodated in such facility for a period exceeding twenty-four consecutive hours;

(15) "Residential care facility I", any premises, other than a residential care facility II, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour care to three or more residents, who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation;

(16) "Residential care facility II", any premises, other than a residential care facility I, an intermediate care facility, or a skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour accommodation, board, and care to three or more residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility, and who need or are provided with supervision of diets, assistance in personal care, storage and distribution or administration of medications, supervision of health care under the direction of a licensed physician, and protective oversight, including care during short-term illness or recuperation;

(17) "Skilled nursing facility", any premises, other than a residential care facility I, a residential care facility II, or an intermediate care facility, which is utilized by its owner, operator or manager to provide for twenty-four hour accommodation, board and skilled nursing care and treatment services to at least three residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four hours a day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill;

(18) "Vendor", any person selling goods or services to a health care provider.

198.015. LICENSE, WHEN REQUIRED — DURATION — CONTENT — EFFECT OF CHANGE OF OWNERSHIP — TEMPORARY PERMITS — PENALTY FOR VIOLATION. — 1. No person shall establish, conduct or maintain a residential care facility I, residential care facility II, intermediate care facility, or skilled nursing facility in this state without a valid license issued by the department. Any person violating this subsection is guilty of a class A misdemeanor. **Any person violating this subsection wherein abuse or neglect of a resident of the facility has occurred is guilty of a class D felony. The department of health and senior services shall investigate any complaint concerning operating unlicensed facilities. For complaints alleging abuse or neglect, the department shall initiate an investigation within twenty-four hours. All other complaints regarding unlicensed facilities shall be investigated within forty-five days.**

2. If the department determines the unlicensed facility is in violation of sections 198.006 to 198.186, the department shall immediately notify the local prosecuting attorney or attorney general's office.

3. Each license shall be issued only for the premises and persons named in the application. A license, unless sooner revoked, shall be issued for a period of up to two years, in order to coordinate licensure with certification in accordance with section 198.045.

[3.**]** **4.** If during the period in which a license is in effect, a licensed operator which is a partnership, limited partnership, or corporation undergoes any of the following changes, or a new corporation, partnership, limited partnership or other entity assumes operation of a facility whether by one or by more than one action, the current operator shall notify the department of the intent to change operators and the succeeding operator shall within ten working days of such change apply for a new license:

(1) With respect to a partnership, a change in the majority interest of general partners;

(2) With respect to a limited partnership, a change in the general partner or in the majority interest of limited partners;

(3) With respect to a corporation, a change in the persons who own, hold or have the power to vote the majority of any class of securities issued by the corporation.

[4.**]** **5.** Licenses shall be posted in a conspicuous place on the licensed premises.

[5.**]** **6.** Any license granted shall state the maximum resident capacity for which granted, the person or persons to whom granted, the date, the expiration date, and such additional information and special limitations as the department by rule may require.

[6.**]** **7.** The department shall notify the operator at least sixty days prior to the expiration of an existing license of the date that the license application is due. Application for a license shall be made to the department at least thirty days prior to the expiration of any existing license.

[7.**]** **8.** The department shall grant an operator a temporary operating permit in order to allow for state review of the application and inspection for the purposes of relicensure if the application review and inspection process has not been completed prior to the expiration of a license and the operator is not at fault for the failure to complete the application review and inspection process.

[8.**]** **9.** The department shall grant an operator a temporary operating permit of sufficient duration to allow the department to evaluate any application for a license submitted as a result of any change of operator.

198.022. DUTY OF DEPARTMENT ON RECEIPT OF APPLICATION — DUTY UPON DENIAL — DEPARTMENT MAY COPY RECORDS AT ITS EXPENSE — REMOVAL OF RECORDS PROHIBITED — INSPECTION, WHEN — COURT ORDER TO INSPECT — OUT-OF-STATE APPLICANTS, COMPLIANCE HISTORY MAY BE REQUESTED. — 1. Upon receipt of an application for a license to operate a facility, the department shall review the application, investigate the applicant and the statements sworn to in the application for license and conduct any necessary inspections. A license shall be issued if the following requirements are met:

(1) The statements in the application are true and correct;

(2) The facility and the operator are in substantial compliance with the provisions of sections 198.003 to 198.096 and the standards established thereunder;

(3) The applicant has the financial capacity to operate the facility;

(4) The administrator of a residential care facility II, a skilled nursing facility, or an intermediate care facility is currently licensed under the provisions of chapter 344, RSMo;

(5) Neither the operator nor any principals in the operation of the facility have ever been convicted of a felony offense concerning the operation of a long-term health care facility or other health care facility or ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare or property of a resident, while acting in a management capacity. The operator of the facility or any principal in the operation of the facility shall not be under exclusion from participation in the title XVIII (Medicare) or title XIX (Medicaid) program of any state or territory;

(6) Neither the operator nor any principals involved in the operation of the facility have ever been convicted of a felony in any state or federal court arising out of conduct involving either management of a long-term care facility or the provision or receipt of health care;

(7) All fees due to the state have been paid.

2. Upon denial of any application for a license, the department shall so notify the applicant in writing, setting forth therein the reasons and grounds for denial.

3. The department may inspect any facility and any records and may make copies of records, at the facility, at the department's own expense, required to be maintained by sections 198.003 to 198.096 or by the rules and regulations promulgated thereunder at any time if a license has been issued to or an application for a license has been filed by the operator of such facility. **Copies of any records requested by the department shall be prepared by the staff of such facility within two business days or as determined by the department. The department shall not remove or disassemble any medical record during any inspection of the facility, but may observe the photocopying or may make its own copies if the facility does not have the technology to make the copies. In accordance with the provisions of section 198.525,** the department shall make at least two inspections per year, at least one of which shall be unannounced to the operator. The department may make such other inspections, announced or unannounced, as it deems necessary to carry out the provisions of sections 198.003 to 198.136.

4. Whenever the department has reasonable grounds to believe that a facility required to be licensed under sections 198.003 to 198.096 is operating without a license, and the department is not permitted access to inspect the facility, or when a licensed operator refuses to permit access to the department to inspect the facility, the department shall apply to the circuit court of the county in which the premises is located for an order authorizing entry for such inspection, and the court shall issue the order if it finds reasonable grounds for inspection or if it finds that a licensed operator has refused to permit the department access to inspect the facility.

5. Whenever the department is inspecting a facility in response to an application from an operator located outside of Missouri not previously licensed by the department, the department may request from the applicant the past five years compliance history of all facilities owned by the applicant located outside of this state.

198.027. ON-SITE REVISIT NOT REQUIRED, WHEN. — If a facility submits satisfactory documentation that establishes correction of any deficiency contained within the written report of deficiency required by section 198.026, an on-site revisit of such deficiency may not be required.

198.030. POSTING OF INSPECTION REPORTS AT THE FACILITY. — Every residential care facility I, residential care facility II, intermediate care facility, and skilled nursing facility shall post the most recent inspection report of the facility in a conspicuous place. If the operator determines that the inspection report of the facility contains individually identifiable health information, the operator may redact such information prior to posting the inspection report.

198.032. RECORDS, WHAT CONFIDENTIAL, WHAT SUBJECT TO DISCLOSURE — PROCEDURE — CENTRAL REGISTRY TO RECEIVE COMPLAINTS OF ABUSE AND NEGLECT, PROCEDURE — HOT LINE CALLER LOG TO BE MAINTAINED. — 1. Nothing contained in sections 198.003 to 198.186 shall permit the public disclosure by the department of confidential medical, social, personal or financial records of any resident in any facility, except when disclosed in a manner which does not identify any resident, or when ordered to do so by a court of competent jurisdiction. Such records shall be accessible without court order for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department;

(2) The attorney general;

(3) The department of mental health for residents placed through that department;

(4) Any appropriate law enforcement agency;

(5) The resident, **[**his**]** **the resident's** guardian, or any other person designated by the resident; and

(6) Appropriate committees of the general assembly and the state auditor, but only to the extent of financial records which the operator is required to maintain pursuant to sections 198.088 and 198.090.

2. Inspection reports and written reports of investigations of complaints, of substantiated reports of abuse and neglect received in accordance with section 198.070, and complaints received by the department relating to the quality of care of facility residents, shall be accessible to the public for examination and copying, provided that such reports are disclosed in a manner which does not identify the complainant or any particular resident. Records and reports shall clearly show what steps the department and the institution are taking to resolve problems indicated in said inspections, reports and complaints.

3. The department shall maintain a central registry capable of receiving and maintaining reports received in a manner that facilitates rapid access and recall of the information reported, and of subsequent investigations and other relevant information. The department shall electronically record **and maintain a hotline caller log for the reporting of suspected abuse and neglect in long-term care facilities.** Any telephone report of suspected abuse and neglect received by the department and such recorded reports shall be retained by the department for a period of one year after recording. **The department shall in all cases attempt to obtain the name of any person making a report after obtaining relevant information regarding the alleged abuse or neglect. The department shall also attempt to obtain the address of any person making a report. The identity of the person making the report shall remain confidential.**

[4. Although reports to the central registry may be made anonymously, the department shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect, attempt to obtain the name and address of any person making a report.**]**

198.036. REVOCATION OF LICENSE — GROUNDS — NOTICE REQUIRED. — 1. The department may revoke a license in any case in which it finds that **[**the operator**]**:

(1) **The operator** failed or refused to comply with class I or II standards, as established by the department pursuant to section 198.085; or failed or refused to comply with class III standards as established by the department pursuant to section 198.085, where the aggregate effect of such noncompliances presents either an imminent danger to the health, safety or welfare of any resident or a substantial probability that death or serious physical harm would result;

(2) **The operator** refused to allow representatives of the department to inspect the facility for compliance with standards **or denied representatives of the department access to residents and employees necessary to carry out the duties set forth in this chapter and rules promulgated thereunder, except where employees of the facility are in the process of rendering immediate care to a resident of such facility**;

(3) **The operator** knowingly acted or knowingly omitted any duty in a manner which would materially and adversely affect the health, safety, welfare or property of a resident; **[**or**]**

(4) **The operator** demonstrated financial incapacity to operate and conduct the facility in accordance with the provisions of sections 198.003 to 198.096**[**.**];**

(5) The operator or any principals in the operation of the facility have ever been convicted of, or pled guilty or nolo contendere to a felony offense concerning the operation of a long-term health care facility or other health care facility, or ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare, or property of a resident while acting in a management capacity. The operator of the facility or any principal in the operation of the facility shall not be under exclusion from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory; or

(6) The operator or any principals involved in the operation of the facility have ever been convicted of or pled guilty or nolo contendere to a felony in any state or federal court arising out of conduct involving either management of a long-term care facility or the provision or receipt of health care.

2. **Nothing in subdivision (2) of subsection 1 of this section shall be construed as allowing the department access to information not necessary to carry out the duties set forth in sections 198.006 to 198.186.**

3. Upon revocation of a license, the director of the department shall so notify the operator in writing, setting forth the reason and grounds for the revocation. Notice of such revocation shall be sent either by certified mail, return receipt requested, to the operator at the address of the facility, or served personally upon the operator. The department shall provide the operator notice of such revocation at least ten days prior to its effective date.

198.066. SANCTIONS FOR VIOLATIONS AUTHORIZED. — To encourage compliance with the provisions of this chapter and any rules promulgated thereto, the department of health and senior services shall impose sanctions commensurate with the seriousness of the violation which occurred. For class I, II, or III violations, the following remedies may be imposed:

(1) A plan of correction;
(2) Additional directed staff training;
(3) State monitoring;
(4) A directed plan of correction;
(5) Denial of payment for new Medicaid admissions;
(6) A probationary license and consent agreement as described in section 198.026;
(7) Recovery of civil monetary penalties pursuant to section 198.067;
(8) Denial of payment for all new admissions;
(9) Receivership pursuant to section 198.105; or
(10) License revocation.

198.067. NONCOMPLIANCE WITH LAW — INJUNCTION, WHEN — CIVIL PENALTIES, HOW CALCULATED, WHERE DEPOSITED. — 1. An action may be brought by the department, or by the attorney general on his or her own volition or at the request of the department or any other appropriate state agency, to temporarily or permanently enjoin or restrain any violation of sections 198.003 to 198.096, to enjoin the acceptance of new residents until substantial compliance with sections 198.003 to 198.096 is achieved, or to enjoin any specific action or practice of the facility. Any action brought pursuant to the provisions of this section shall be placed at the head of the docket by the court, and the court shall hold a hearing on any action brought pursuant to the provisions of this section no less than fifteen days after the filing of the action.

2. The department may bring an action in circuit court to recover a civil penalty against the licensed operator of the facility as provided by this section. Such action shall be brought in the circuit court for the county in which the facility is located. The circuit court shall determine the amount of penalty to be assessed within the limits set out in this section. Appeals may be taken from the judgment of the circuit court as in other civil cases.

3. The operator of any facility which has been cited with a violation of sections 198.003 to 198.096 or the regulations established pursuant thereto, or of subsection (b), (c), or (d) of Section 1396r of Title 42 of the United States Code or the regulations established pursuant thereto, is liable to the state for civil penalties of up to **[**ten**]** **twenty-five** thousand dollars for each day that the violations existed or continue to exist. Violations shall be presumed to continue to exist from the time they are found until the time the **[**division of aging**]** **department of health and senior services** finds them to have been corrected. **When applicable,** the amount of the penalty shall be determined as follows:

(1) For each violation of a class I standard **when applicable pursuant to subdivision (6) of this subsection**, not less than one **[**hundred fifty**]** **thousand** dollars nor more than **[**one**]** **ten** thousand dollars;

(2) For each violation of a class II standard, not less than **two hundred** fifty dollars nor more than **[**five hundred**]** **one thousand** dollars;

(3) For each violation of a class III standard, not less than **[**fifteen dollars**]** **fifty dollars** nor more than **[**one**]** **two** hundred fifty dollars;

(4) For each violation of a federal standard which does not also constitute a violation of a state law or regulation, not less than two hundred fifty dollars nor more than five hundred dollars;

(5) For each specific class I violation by the same operator **at a particular facility** which has been **previously** cited within the past twenty-four months and for each specific class II or III violation by the same operator **at a particular facility** which has been **previously** cited within the past twelve months, double the amount last imposed**;**

(6) In accordance with the provisions of this section, if the department imposes a civil monetary penalty for a class I violation, the liability for such penalty shall be incurred immediately upon the imposition of the penalty for the violation regardless of any subsequent correction of the violation by the facility. For class II or III violations, if the department imposes a civil monetary penalty, the liability for such penalty shall be incurred if a breach of a specific state or federal standard or statute remains uncorrected and not in accord with the accepted plan of correction at the time of the reinspection conducted pursuant to subsection 3 of section 198.026 or the regulations established pursuant to Title 42 of the United States Code.

[As used in this subdivision the term "violation" shall mean a breach of a specific state or federal standard or statute which remains uncorrected and not in accord with the accepted plan of correction at the time of the reinspection conducted pursuant to subsection 3 of section 198.026 or the regulations established pursuant to Title 42 of the United States Code.**]** A judgment rendered against the operator of a facility pursuant to this subsection shall bear interest as provided in subsection 1 of section 408.040, RSMo.

4. Any individual who willfully and knowingly certifies pursuant to subsection (b)(3)(B)(i) of Section 1396r of Title 42 of the United States Code a material and false statement in a resident assessment is subject to a civil penalty of not more than one thousand dollars with respect to each assessment. Any individual who willfully and knowingly causes another individual to certify pursuant to subsection (b)(3)(B)(i) of Section 1396r of Title 42 of the United States Code a material and false statement in a resident assessment is subject to a civil penalty of not more than five thousand dollars with respect to each assessment.

5. The imposition of any remedy provided for in sections 198.003 to 198.186 shall not bar the imposition of any other remedy.

6. **Twenty-five percent of the** penalties collected pursuant to this section shall be deposited in the **[**division of aging**]** elderly home-delivered meals trust fund as established in section 660.078, RSMo. **Twenty-five percent of the penalties collected pursuant to this section shall be deposited in the nursing facility quality of care fund established in section 198.418 to be used for the sole purpose of supporting quality care improvement projects within the office of state ombudsman for long-term care facility residents, established pursuant to section 660.603, RSMo. The remaining fifty percent of the penalties collected pursuant to this section shall be deposited into the nursing facility quality of care fund to be used by the department for the sole purpose of developing a program to assist qualified nursing facilities to improve the quality of service to their residents. The director of the department shall, by rule, develop a definition of qualified facilities and shall establish procedures for the selection of qualified facilities. 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 an 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, 2003, shall be invalid and void. Such penalties shall not be considered a charitable contribution for tax purposes.

7. To recover any civil penalty, the moving party shall prove by clear and convincing evidence that the violation occurred.

8. The licensed operator of a facility against whom an action to recover **a** civil penalty is brought pursuant to this section may confess judgment as provided in section 511.070, RSMo, at any time prior to hearing. If such licensed operator agrees to confess judgment, the amount of the civil penalty recommended by the moving party in its petition shall be reduced by twenty-five percent and the confessed judgment shall be entered by the circuit court at the reduced amount.

9. The amount of any civil penalty assessed by the circuit court pursuant to this section shall be reduced by the amount of any civil monetary penalty which the licensed operator of the facility may establish it has paid pursuant to the laws of the United States for the breach of the same federal standards for which the state action is brought.

10. In addition to the civil penalties specified in subdivision (1) of subsection 3 of this section, any facility which is cited with a violation of a class I standard pursuant to subsection 1 of section 198.085, when such violation results in serious physical injury or abuse of a sexual nature pursuant to subdivision (1) of section 198.006, to any resident of that facility shall be liable to the state for a civil penalty of one hundred dollars multiplied by the number of beds licensed to the facility, up to a maximum of ten thousand dollars pursuant to subsections 1 and 2 of this section. The liability of the facility for civil penalties pursuant to this section shall be incurred immediately upon the citation of the violation and shall not be affected by any subsequent correction of the violation. For the purposes of this section, "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.

11. The department shall not impose a fine for self-reporting class II and class III violations so long as each violation is corrected within a specified period of time as determined by the department and there is no reoccurrence of the particular violation for twelve months following the date of the first self-reporting.

12. If a facility is sold or changes its operator, any civil penalty assessed shall not be sold, transferred, or otherwise assigned to the successor operator but shall remain the sole liability of the operator at the time of the violation.

198.070. ABUSE OR NEGLECT OF RESIDENTS — REPORTS, WHEN, BY WHOM — CONTENTS OF REPORT — FAILURE TO REPORT, PENALTY — INVESTIGATION, REFERRAL OF COMPLAINT, REMOVAL OF RESIDENT — CONFIDENTIALITY OF REPORT — IMMUNITY, EXCEPTION — PROHIBITION AGAINST RETALIATION — PENALTY — EMPLOYEE LIST — SELF-REPORTING OF INCIDENTS, INVESTIGATIONS, WHEN. — 1. When any **[**physician, dentist, chiropractor, optometrist, podiatrist, intern, nurse, medical examiner, social worker, psychologist, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, employee in a facility, or employee of the department of social services or of the department of mental health, coroner, dentist, hospital and clinic personnel engaged in examination, other health practitioners, mental health professional, adult day care worker, probation or parole officer, law enforcement official**] adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral**

director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; social worker; or other person with the care of a person sixty years of age or older or an eligible adult has reasonable cause to believe that a resident of a facility has been abused or neglected, he or she shall immediately report or cause a report to be made to the department.

2. The report shall contain the name and address of the facility, the name of the resident, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any person required in subsection 1 of this section to report or cause a report to be made to the department who knowingly fails to make a report within a reasonable time after the act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

4. **In addition to the penalties imposed by this section, any administrator who knowingly conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in section 565.002, RSMo, is guilty of a class D felony.**

5. In addition to those persons required to report pursuant to subsection 1 of this section, any other person having reasonable cause to believe that a resident has been abused or neglected may report such information to the department.

[5.**]** **6.** Upon receipt of a report, the department shall initiate an investigation within twenty-four hours and, as soon as possible during the course of the investigation, shall notify the resident's next of kin or responsible party of the report and the investigation and further notify them whether the report was substantiated or unsubstantiated **unless such person is the alleged perpetrator of the abuse or neglect**. As provided in section 565.186, RSMo, substantiated reports of elder abuse shall be promptly reported by the department to the appropriate law enforcement agency and prosecutor.

[6.**]** **7.** If the investigation indicates possible abuse or neglect of a resident, the investigator shall refer the complaint together with the investigator's report to the department director or the director's designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal is necessary to protect the resident from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the resident in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident, for a period not to exceed thirty days.

[7.**]** **8.** Reports shall be confidential, as provided pursuant to section 660.320, RSMo.

[8.**]** **9.** Anyone**, except any person who has abused or neglected a resident in a facility,** who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted **negligently, recklessly,** in bad faith or with malicious purpose. It is a crime pursuant to section 565.186 and 565.188, RSMo, for any person to purposely file a false report of elder abuse or neglect.

[9.**]** **10.** Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

[10.**]** **11.** No person who directs or exercises any authority in a facility shall evict, harass, dismiss or retaliate against a resident or employee because such resident or employee or any

member of such resident's or employee's family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which the resident, the resident's family or an employee has reasonable cause to believe has been committed or has occurred. Through the existing **[**division of aging**]** **department** information and referral telephone contact line, residents, their families and employees of a facility shall be able to obtain information about their rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to a report being made pursuant to this section.

[11.**]** **12.** Any person who **[**knowingly**]** abuses or neglects a resident of a facility **[**shall be guilty of a class D felony**]** **is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo**.

[12.**]** **13.** The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who **are or** have been **employed in any facility and who have been** finally determined by the department pursuant to section 660.315, RSMo, to have **[**recklessly, knowingly or purposely abused or neglected a resident while employed in any facility**]** **knowingly or recklessly abused or neglected a resident. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation**.

[13.**]** **14.** The timely self-reporting of incidents to the central registry by a facility shall continue to be investigated in accordance with department policy, and shall not be counted or reported by the department as a hot-line call but rather a self-reported incident. If the self-reported incident results in a regulatory violation, such incident shall be reported as a substantiated report.

198.071. DEATH OF A RESIDENT, PERSONS TO CONTACT PRIOR TO TRANSFER OF DECEASED. — The staff of a residential care facility I, a residential care facility II, an intermediate care facility, or a skilled nursing facility shall attempt to contact the resident's immediate family or a resident's responsible party, and shall contact the attending physician and notify the local coroner or medical examiner immediately upon the death of any resident of the facility prior to transferring the deceased resident to a funeral home.

198.082. NURSING ASSISTANT TRAINING PROGRAMS — TRAINING INCOMPLETE, SPECIAL REQUIREMENTS AND SUPERVISION FOR ASSISTANT BEGINNING DUTIES. — 1. Each nursing assistant hired to work in a skilled nursing or intermediate care facility after January 1, 1980, shall have successfully completed a nursing assistant training program approved by the department or shall enroll in and begin the first available approved training program which is scheduled to commence within ninety days of the date of the nursing assistant's employment **and which shall be completed within four months of employment**. Training programs shall be offered at **[**a location**]** **any facility licensed or approved by the department of health and senior services which is** most reasonably accessible to the enrollees in each class. The program may be established by the skilled nursing or intermediate care facility, by a professional organization, or by the department, and training shall be given by the personnel of the facility, by a professional organization, by the department, by any junior college or by the vocational education department of any high school.

2. As used in this section the term "nursing assistant" means an employee, including a nurse's aide or an orderly, who is assigned by a skilled nursing or intermediate care facility to provide or assist in the provision of direct resident health care services under the supervision of a nurse licensed under the nursing practice law, chapter 335, RSMo. This section shall not apply

to any person otherwise licensed to perform health care services under the laws of this state. It shall not apply to volunteers or to members of religious or fraternal orders which operate and administer the facility, if such volunteers or members work without compensation.

3. The training program after January 1, 1989, shall consist of at least the following:

(1) A training program consisting of at least seventy-five classroom hours of training on basic nursing skills, clinical practice, resident safety and rights, the social and psychological problems of residents, and the methods of handling and caring for mentally confused residents such as those with Alzheimer's disease and related disorders, and one hundred hours supervised and on-the-job training. The one hundred hours **shall be completed within four months of employment and** may consist of normal employment as nurse assistants under the supervision of a licensed nurse; and

(2) Continuing in-service training to assure continuing competency in existing and new nursing skills. All nursing assistants trained prior to January 1, 1989, shall attend, by August 31, 1989, an entire special retraining program established by rule or regulation of the department which shall contain information on methods of handling mentally confused residents and which may be offered on premises by the employing facility.

4. Nursing assistants who have not successfully completed the nursing assistant training program prior to employment may begin duties as a nursing assistant only after completing an initial twelve hours of basic orientation approved by the department and may provide direct resident care only if under the general supervision of a licensed nurse prior to completion of the seventy-five classroom hours of the training program.

198.086. DEMONSTRATION PROJECT, ALZHEIMER'S LICENSURE CATEGORY — DEPARTMENT DUTIES — ACCOMMODATIONS FOR FAMILY MEMBERS. — 1. The **[**division of aging**]** **department of health and senior services** shall develop and implement a demonstration project designed to establish a licensure category for health care facilities that wish to provide treatment to persons with Alzheimer's disease or Alzheimer's related dementia. The division shall also:

(1) Inform potential providers of the demonstration project and seek letters of intent;

(2) Review letters of intent and select provider organizations to participate in the demonstration project. Ten such organizations may develop such projects using an existing license and additional organizations shall be newly licensed facilities with no more than thirty beds per project. One demonstration project shall be at a stand-alone facility of no more than one hundred twenty beds designed and operated exclusively for the care of residents with Alzheimer's disease or dementia within a county of the first classification with a charter form of government with a population over nine hundred thousand. A total of not more than three hundred beds may be newly licensed through the demonstration projects. All projects shall maintain their pilot status until a complete evaluation is completed by the division of aging, in conjunction with a qualified Missouri school or university, and a written determination is made from such evaluation that the pilot project is successful;

(3) Monitor the participants' compliance with the criteria established in this section;

(4) Recommend legislation regarding the licensure of dementia-specific residential care based on the results of the demonstration project; and

(5) Submit a report regarding the division's activities and recommendations for administrative or legislative action on or before November fifteenth of each year to the governor, the president pro tem of the senate and the speaker of the house of representatives.

2. The director of the division of aging shall:

(1) Develop a reimbursement methodology to reasonably and adequately compensate the pilot projects for the costs of operation of the project, and require the filing of annual cost reports by each participating facility which shall include, but not be limited to, the cost equivalent of unpaid volunteer or donated labor;

(2) Process the license applications of project participants;

(3) Monitor each participant to assure its compliance with the requirements and that the life, health and safety of residents are assured;

(4) Require each participating facility to complete a minimum data set form for each resident occupying a pilot bed;

(5) Require the division of aging to assign a single team of the same surveyors to inspect and survey all participating facilities at least twice a year for the entire period of the project; and

(6) Submit to the president pro tem of the senate and speaker of the house of representatives copies of any statements of deficiencies, plans of correction and complaint investigation reports applying to project participants.

3. Project participants shall:

(1) Be licensed by the division of aging;

(2) Provide care only to persons who have been diagnosed with Alzheimer's disease or Alzheimer's related dementia;

(3) Have buildings and furnishings that are designed to provide for the resident's safety. Facilities shall have indoor and outdoor activity areas, and electronically controlled exits from the buildings and grounds to allow residents the ability to explore while preventing them from exiting the facility's grounds unattended;

(4) Be staffed twenty-four hours a day by the appropriate number and type of personnel necessary for the proper care of residents and upkeep of the facility;

(5) Conduct special staff training relating to the needs, care and safety of persons with Alzheimer's disease or Alzheimer's related dementia within the first thirty days of employment;

(6) Utilize personal electronic monitoring devices for any resident whose physician recommends use of such device;

(7) Permit the resident's physician, in consultation with the family members or health care advocates of the resident, to determine whether the facility meets the needs of the resident;

(8) Be equipped with an automatic sprinkler system, in compliance with the National Fire Protection Association Code 13 or National Fire Protection Association Code 13R, and an automated fire alarm system and smoke barriers in compliance with the 1997 Life Safety Codes for Existing Health Care Occupancy; and

(9) Implement a social model for the residential environment rather than an institutional medical model.

4. For purposes of this section, "health care facilities for persons with Alzheimer's disease or Alzheimer's related dementia" means facilities that are specifically designed and operated to provide elderly individuals who have chronic confusion or dementia illness, or both, with a safe, structured but flexible environment that encourages physical activity through a well-developed recreational and aging-in-place, and activity program. Such program shall continually strive to promote the highest practicable physical and mental abilities and functioning of each resident.

5. Nothing in this section shall be construed to prohibit project participants from accommodating a family member or other caregiver from residing with the resident in accordance with all life, health, and safety standards of the facility.

198.105. PETITION FOR APPOINTMENT OF RECEIVER, CONTENTS — HEARING — APPOINTMENT OF RECEIVER. — 1. Any petition for appointment of a receiver shall be verified and shall be accompanied by an affidavit or affidavits setting forth material facts showing there exists one or more of the conditions specified in section 198.099. The petition shall be filed in the circuit court of Cole County or in the county where the facility is located. If the petition is not filed by the attorney general, a copy of the petition shall be served upon the department and upon the attorney general. The court shall hold a hearing on the petition within five days of the filing of the petition and determine the matter within fifteen days of the initial hearing. The petition and notice of the hearing shall be served on the operator or administrator of the facility or, if personal service is impossible, shall be posted in a conspicuous place in the facility not later

than three days before the time specified for the hearing, unless a different period is fixed by order of the court.

2. The court shall appoint **[**the director of the department or his designee, or any person determined by the court to be qualified,**]** **a person, selected in accordance with the provisions of this subsection and the rules promulgated pursuant to this section,** to act as receiver if it finds that any ground exists which would authorize the appointment of a receiver under section 198.099 and that appointment of a receiver will contribute to the continuity of care or the orderly and safe transfer of residents in the facility. **The department shall, within six months of the effective date of this act, promulgate rules to establish guidelines for the determination of qualified receivers, procedures for maintaining the list of qualified receivers that requested in writing to act as a receiver, and the selection or removal of such receivers. 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, 2003, shall be invalid and void.**

3. The director of the department shall maintain a list of persons who have submitted a written request in accordance with the provisions of this subsection and the rules promulgated by the department to act as receiver pursuant to section 198.099. When a petition is filed seeking the appointment of a receiver, the director of the department shall select the first name on the list. The director of the department shall inform such person of his or her selection, the name of the facility, and the grounds for seeking receivership of such facility. Such person may elect not to be appointed, in which case the director of the department shall choose the next consecutive name on the list, continuing until a person has agreed to serve as the receiver. The director shall provide the name of the person selected and agreeing to serve as the receiver to the judge of the court wherein the petition for receivership is filed. For each additional petition filed seeking the appointment of a receiver, names shall be chosen from the list in consecutive order beginning with the next name that follows the last name chosen. If none of the persons on the list agree to serve as the receiver, the court shall appoint a person determined by the court to be qualified to act as receiver.

198.301. WHISTLEBLOWER PROTECTION FOR EMPLOYEES — AVAILABILITY OF INFORMATION ON RIGHTS OF PERSONS RETALIATED AGAINST. — No employee of a nursing home district who directs or exercises any authority in a facility shall evict, harass, dismiss, or retaliate against a resident or employee because such resident or employee or any member of such resident's or employee's family has made a report of any violation or suspected violation of laws, ordinances, or regulations applying to the facility which the resident, the resident's family, or an employee has reasonable cause to believe has been committed or has occurred. Through the existing department information and referral telephone contact line, residents, their families, and employees of a facility shall be able to obtain information about their rights, protections, and options in cases of eviction, harassment, dismissal, or retaliation due to a report being made pursuant to this section.

198.428. MEDICAID ELIGIBILITY PRESUMED PENDING APPROVAL OR DENIAL OF APPLICATION, WHEN. — If the division of family services is unable to make a determination regarding Medicaid eligibility for a resident within sixty days of the submission of a completed application for medical assistance for nursing facility services, the patient shall

be Medicaid eligible until the application is approved or denied. However, in no event shall benefits be construed to commence prior to the date of application.

198.525. INSPECTION OF CERTAIN LONG-TERM CARE FACILITIES, WHEN. — Except as otherwise provided pursuant to section 198.526, in order to comply with sections 198.012 and 198.022, the department of health and senior services shall inspect **residential care facilities I,** residential care facilities II, intermediate care facilities**,** and skilled nursing**, including those** facilities attached to acute care hospitals at least twice a year.

198.526. BIANNUAL INSPECTIONS — REEVALUATION OF INSPECTION PROCESS — REDUCTION IN INSPECTION SCHEDULE, WHEN — DISCLOSURE OF INSPECTION SCHEDULE LIMITED, PENALTY FOR VIOLATION. — 1. **[**The division of aging**] Except as provided in subsection 3 of this section, the department of health and senior services** shall inspect all facilities licensed by the **[**division**] department** at least twice each year. Such inspections shall be conducted:

(1) Without the prior notification of the facility; and

(2) At times of the day, on dates and at intervals which do not permit facilities to anticipate such inspections.

2. The **[**division**] department** shall annually reevaluate the inspection process to ensure the requirements of subsection 1 of this section are met.

3. The department may reduce the frequency of inspections to once a year if a facility is found to be in substantial compliance. The basis for such determination shall include, but not be limited to, the following:

(1) Previous inspection reports;

(2) The facility's history of compliance with rules promulgated pursuant to this chapter;

(3) The number and severity of complaints received about the facility; and

(4) In the year subsequent to a finding of no class I violations or class II violations, the facility does not have a change in ownership, operator, or, if the department finds it significant, a change in director of nursing.

4. Information regarding unannounced inspections shall be disclosed to employees of the department on a need-to-know basis only. Any employee of the department who knowingly discloses the time of an unannounced inspection in violation of this section is guilty of a class A misdemeanor and shall have his or her employment immediately terminated.

198.528. LONG-TERM CARE FACILITY INFORMATION TO BE PROVIDED ON DEPARTMENT INTERNET WEB SITE. — 1. The department of health and senior services shall provide through its Internet web site:

(1) The most recent survey of every long-term care facility licensed in this state and any such findings of deficiencies and the effect the deficiency would have on such facility. If such survey is in dispute, the survey shall not be posted on the web site until the facility's informal dispute resolution process resolves the dispute and the department shall, upon request of the facility, post the facility's response;

(2) The facility's proposed plan of correction;

(3) A link to the federal web site that provides a summary of facility surveys conducted over the last three years; and

(4) Information on how to obtain a copy of a complete facility survey conducted over the last three years.

2. Nothing in this section shall be construed as requiring the department to post any information on its Internet web site that is prohibited from disclosure pursuant to the federal Health Insurance Portability and Accountability Act, as amended.

198.532. INVESTIGATION OF COMPLAINTS — RESULTS PROVIDED, WHEN. — 1. Complaints filed with the **[**division of aging**]** **department of health and senior services** against a long-term care facility which allege that harm has occurred or is likely to occur to a resident or residents of the facility due to actions or the lack of actions taken by the facility shall be investigated within thirty days of receipt of such complaints. The purpose of such investigation shall be to ensure the safety, protection and care of all residents of the facility likely to be affected by the alleged action or inaction. Such investigation shall be in addition to the investigation requirements for abuse and neglect reports pursuant to section 198.070.

2. The **[**division**]** **department** shall provide the results of all investigations in accordance with section 660.320, RSMo. The **[**division**]** **department** shall provide the results of such investigation in writing to all parties to the complaint, and if requested, to any of the facility's residents, or their family members or guardians. Complaints and written results will be readily available for public access and review at the **[**division of aging**]** **department of health and senior services** and at the long-term care facility. Personal information identifying the resident will be blanked out, except in regard to immediate family, the attorney-in-fact or the legal guardian of the resident in question. This information will remain readily available for a period of time determined by the **[**division of aging**]** **department of health and senior services**.

198.600. UNIFORM DATA MANAGEMENT PILOT PROGRAM ESTABLISHED, PURPOSE, MONITORING. — 1. The department of health and senior services shall establish a "Uniform Data Management Pilot Program" at a minimum of fifty selected facilities of varying licensure or classification throughout the state to improve patient care and retention of nursing facility staff. The department shall determine the nature and extent of the pilot program and provide all necessary resources.

2. The pilot program shall be implemented no later than six months after funding for the pilot program is made available.

3. The pilot program shall:

(1) Encourage the utilization of existing or the purchase of new software in an effort to modernize the procedures for compiling and disseminating data for long-term care facilities;

(2) Enable physicians, licensed nurses, and facility personnel to devote more quality time to patient care; and

(3) Be established in selected urban, rural, and regional sites throughout the state.

4. The department of health and senior services shall monitor the pilot program and report to the general assembly by January first next following the implementation of the pilot program pursuant to this section on the effectiveness of such program, including quality of care, employee satisfaction, and cost-effectiveness.

565.186. INVESTIGATION OF ELDER ABUSE — REPORT. — The department of **[**social services**]** **health and senior services** shall investigate incidents and reports of elder abuse using the procedures established in sections 660.250 to 660.295, RSMo, and upon substantiation of the report of elder abuse, shall promptly report the incident to the appropriate law enforcement agency and prosecutor and shall determine whether protective services are required pursuant to sections 660.250 to 660.295, RSMo. **If the department is unable to substantiate whether abuse occurred due to the failure of the operator or any of the operator's agents or employees to cooperate with the investigation, the incident shall be promptly reported to appropriate law enforcement agencies.**

565.188. REPORT OF ELDER ABUSE, PENALTY — FALSE REPORT, PENALTY — EVIDENCE OF PRIOR CONVICTIONS. — 1. When any **[**physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident intern, nurse, hospital and clinic personnel engaged in examination, care or treatment of persons, or other health practitioners, psychologists, mental

health professional, social worker, adult day care center worker, nursing home worker, probation or parole officer, Christian Science practitioner, peace officer or law enforcement official,**] adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; social worker;** or other person with responsibility for the care of a person sixty years of age or older has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances which would reasonably result in abuse or neglect, he **or she** shall immediately report or cause a report to be made to the department in accordance with the provisions of sections 660.250 to 660.295, RSMo. Any other person who becomes aware of circumstances which may reasonably be expected to be the result of or result in abuse or neglect may report to the department.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor.

3. Any person who purposely files a false report of elder abuse or neglect **[**shall be**] is** guilty of a class A misdemeanor.

4. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 3 of this section is guilty of a class D felony.

5. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

570.145. FINANCIAL EXPLOITATION OF THE ELDERLY AND DISABLED, PENALTY — DEFINITIONS. — 1. A person **[**is guilty of the offense**] commits the crime** of financial exploitation of an elderly or disabled person if such person **[**stands in a position of trust and confidence with the elderly or disabled person, and such person**]** knowingly and by deception **[**or**],** intimidation**, or force** obtains control over the elderly or disabled person's property with the intent to permanently deprive the elderly or disabled person of the use, benefit or possession of his or her property thereby benefiting such person or detrimentally affecting the elderly or disabled person. Financial exploitation of an elderly or disabled person is a class A misdemeanor if the value of the property is less than **[**two hundred**]** fifty dollars **[**and**],** a class **[**C**] D** felony if the value of the property is **[**two hundred fifty dollars or more**] fifty dollars but less than five hundred dollars, a class C felony if the value of the property is five hundred dollars but less than one thousand dollars, and a class B felony if the value of the property is one thousand dollars or more**.

2. For purposes of this section, the following terms mean:

(1) "Deception", a misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly or disabled person or to the existing or preexisting condition of any of the property involved in such contract or agreement, or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly or disabled person to enter into a contract or agreement. Deception includes:

(a) Creating or confirming another person's impression which is false and which the offender does not believe to be true; or

(b) Failure to correct a false impression which the offender previously has created or confirmed; or

(c) Preventing another person from acquiring information pertinent to the disposition of the property involved; or

(d) Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promising performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender did not intend to perform;

(2) "Disabled person", a person who suffers from a physical or mental impairment resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of avoiding or preventing the commission of an offense;

(3) "Elderly person", a person sixty years of age or older who is suffering from a disease or infirmity associated with advanced age and manifested by physical, mental or emotional dysfunctioning to the extent that such person is incapable of avoiding or preventing the commission of the offense;

(4) "Intimidation", the communication to an elderly or disabled person that he or she will be deprived of food and nutrition, shelter, prescribed medication, or medical care and treatment.

3. **[**For purposes of this section, a person stands in a position of trust and confidence with an elderly or disabled person when such person:

(1) Is a parent, spouse, adult child or other relative by blood or marriage of the elderly or disabled person;

(2) Is a joint tenant or tenant in common with the elderly or disabled person with knowledge of such relationship;

(3) Has a legal or fiduciary relationship with the elderly or disabled person; or

(4) Has a relationship with the elderly or disabled person as a health care or personal care worker.

4.**]** Nothing in this section shall be construed to limit the remedies available to the victim pursuant to any state law relating to domestic violence.

[5.**]** **4.** Nothing in this section shall be construed to impose criminal liability on a person who has made a good faith effort to assist the elderly or disabled person in the management of his or her property, but through no fault of his or her own has been unable to provide such assistance.

[6.**]** **5.** Nothing in this section shall limit the ability to engage in bona fide estate planning, to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that such actions do not adversely impact the standard of living to which the elderly or disabled person has become accustomed at the time of such actions.

[7.**]** **6.** It shall not be a defense to financial exploitation of an elderly or disabled person that the accused reasonably believed that the victim was not an elderly or disabled person.

630.140. RECORDS CONFIDENTIAL, WHEN — MAY BE DISCLOSED, TO WHOM, HOW, WHEN — RELEASE TO BE DOCUMENTED — COURT RECORDS CONFIDENTIAL, EXCEPTIONS. — 1. Information and records compiled, obtained, prepared or maintained by the residential facility, day program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

(1) The parent of a minor patient, resident or client;

(2) The guardian or other person having legal custody of the patient, resident or client;

(3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;

(4) An attorney or personal physician as authorized by the patient, resident or client;

(5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement officers shall be obligated to keep such information confidential;

(6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. **[**6042**]** **Sections 15042 to 15044**. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C**.** 10801 shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section. The provisions of this subdivision shall apply to a person who has a significant mental illness or impairment as determined by a mental health professional qualified under the laws and regulations of the state;

(8) To mental health coordinators, but only to the extent necessary to carry out their duties under chapter 632, RSMo.

3. The facilities or services may disclose information and records under any of the following:

(1) As authorized by the patient, resident or client;

(2) To persons or agencies responsible for providing health care services to such patients, residents or clients;

(3) To the extent necessary for a recipient to make a claim or for a claim to be made on behalf of a recipient for aid or insurance;

(4) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations or similar studies; provided, that such personnel shall not identify, directly or indirectly, any individual patient, resident or client in any report of such research, audit or evaluation, or otherwise disclose patient, resident or client identities in any manner;

(5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo, 552, RSMo, or 632, RSMo;

(6) To law enforcement officers or public health officers, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement and public health officers shall be obligated to keep such information confidential;

(7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

(8) To the attorney representing petitioners, but only to the extent necessary to carry out their duties under chapter 632, RSMo;

(9) To the department of social services **or the department of health and senior services** as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents, or clients;

(10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986, but only to the extent necessary to carry out their statutory responsibilities. The county board shall not identify, directly or indirectly, any individual patient, resident or client.

4. The facility or program shall document the dates, nature, purposes and recipients of any records disclosed under this section and sections 630.145 and 630.150.

5. The records and files maintained in any court proceeding under chapter 632, RSMo, shall be confidential and available only to the patient, **[**his**]** **the patient's** attorney, guardian, or, in the case of a minor, to a parent or other person having legal custody of the patient, and to the petitioner and **[**his**]** **the petitioner's** attorney. In addition, the court may order the release or use of such records or files only upon good cause shown, and the court may impose such restrictions as the court deems appropriate.

6. Nothing contained in this chapter shall limit the rights of discovery in judicial or administrative procedures as otherwise provided for by statute or rule.

7. The fact of admission of a voluntary or involuntary patient to a mental health facility under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this section.

630.165. SUSPECTED ABUSE OF PATIENT, REPORT, BY WHOM MADE, CONTENTS — EFFECT OF FAILURE TO REPORT — PENALTY. — 1. When any physician, dentist, chiropractor, optometrist, podiatrist, intern, nurse, medical examiner, social worker, psychologist, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide or orderly in a residential facility, day program or specialized service operated, funded or licensed by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, or employee of the department has reasonable cause to believe that a patient, resident or client of a facility, program or service has been abused or neglected, he **or she** shall immediately report or cause a report to be made to the department or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, RSMo.

2. The report shall contain the name and address of the residential facility, day program or specialized service; the name of the patient, resident or client; information regarding the nature of the abuse or neglect; the name of the complainant, and any other information which might be helpful in an investigation.

3. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of an infraction.

4. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that a resident has been abused or neglected may report such information to the department.

5. Any person who knowingly files a false report of abuse or neglect is guilty of a class A misdemeanor.

6. Any person having a prior conviction of filing false reports and who subsequently files a false report of abuse or neglect pursuant to this section or section 565.188, RSMo, is guilty of a class D felony.

630.167. INVESTIGATION OF REPORT, WHEN MADE, BY WHOM — ABUSE PREVENTION BY REMOVAL, PROCEDURE — REPORTS CONFIDENTIAL, PRIVILEGED, EXCEPTIONS — IMMUNITY OF REPORTER, NOTIFICATION — RETALIATION PROHIBITED — ADMINISTRATIVE DISCHARGE OF EMPLOYEE, APPEAL PROCEDURE. — 1. Upon receipt of a report, the department or its agents, contractors or vendors or the department of health and

senior services, if such facility or program is licensed pursuant to chapter 197, RSMo, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) Reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo; except that**[**:**]** complete copies **of** all such reports shall be open and available to the parents or other guardian of the patient, resident, or client who is the subject of such report, **[**except that**] but** the names and any other descriptive information of the complainant or other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section 36.390, RSMo, or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, **and the department of health and senior services,** and to boards appointed pursuant to sections 205.968 to 205.990, RSMo, that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers**, department of health and senior services' officers,** and boards shall be obligated to keep such information confidential;

(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section 537.035, RSMo, or mental health professionals as defined in section 632.005, RSMo, who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee;

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential

information relating to matters and investigations within the jurisdiction of such health care licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection;

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. **[**6042**]** **Sections 15042 to 15044** and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, RSMo, appeal such decision to the circuit court of the county in which such person resides within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

(1) Good cause exists for the untimely commencement of the request for the review;

(2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and

(3) There is no other adequate remedy at law.

660.078. TAX REFUND CREDITED TO HOME DELIVERED MEALS TRUST FUND — CONTRIBUTIONS ACCEPTED — DIRECTOR OF REVENUE TO TRANSFER CONTRIBUTIONS, TRUST FUND CREATED — STATE TREASURER TO ADMINISTER FUND. — 1. In each tax year beginning on or after January 1, 1993, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation pursuant to this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the **[**division of aging**]** elderly home-delivered meals trust fund, established in subsection 3 of this section. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation pursuant to this section wishes to make a contribution to the division of aging elderly home-delivered meals trust fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the division of aging elderly home-delivered meals trust fund, the individual or corporation wishes

to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals or corporations pursuant to this section, less an amount not to exceed five percent of such transferred contributions which is sufficient to cover the cost of collection and handling by the department of revenue, to the state treasurer for deposit in the state treasury to the credit of the **[**division of aging**]** elderly home-delivered meals trust fund. A contribution designated pursuant to this section shall only be transferred and deposited in the **[**division of aging**]** elderly home-delivered meals trust fund after all other claims against the refund from which such contribution is to be made have been satisfied.

3. There is hereby established in the state treasury the "**[**Division of Aging**]** Elderly Home-Delivered Meals Trust Fund", which shall consist of all moneys deposited in the fund pursuant to subsection 2 of this section. The state treasurer shall administer the fund, and the moneys in the fund shall be used solely, upon appropriation, by the **[**division of aging**]** **department of health and senior services** for assistance in preparing and transporting meals to elderly persons in this state through a program designed to meet such purposes. These funds shall be transferred by the **[**division of aging**]** **department** to the area agencies on aging using the same formula as used for distribution of federal Older Americans Act moneys and moneys from the general revenue fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the **[**division of aging**]** elderly home-delivered meals trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

660.250. DEFINITIONS. — As used in sections 660.250 to **[**660.305**]** **660.321**, the following terms mean:

(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm or corporation;

(2) "Court", the circuit court;

(3) "Department", the department of **[**social services**]** **health and senior services**;

(4) "Director", director of the department of **[**social services**]** **health and senior services** or his **or her** designees;

(5) "Eligible adult", a person sixty years of age or older **who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs** or an adult with a **[**handicap**]** **disability**, as defined in section 660.053, between the ages of eighteen and fifty-nine who is unable to protect his **or her** own interests or adequately perform or obtain services which are necessary to meet his **or her** essential human needs;

(6) "Home health agency", the same meaning as such term is defined in section 197.400, RSMo;

(7) "Home health agency employee", a person employed by a home health agency;

(8) "Home health patient", an eligible adult who is receiving services through any home health agency;

[(6)**]** **(9)** "In-home services client", an eligible adult who is receiving services in his or her private residence through any in-home services provider agency;

[(7)**]** **(10)** "In-home services employee", a person employed by an in-home services provider agency;

[(8)**]** **(11)** "In-home services provider agency", a business entity under contract with the department or with a Medicaid participation agreement **[**or an agency licensed by the department of health and senior services as provided in sections 197.400 to 197.470, RSMo**]**, which employs persons to deliver any kind of services provided for eligible adults in their private homes;

[(9)**]** **(12)** "Least restrictive environment", a physical setting where protective services for the eligible adult and accommodation is provided in a manner no more restrictive of an

individual's personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

[(10)**] (13)** "Likelihood of serious physical harm", one or more of the following:

(a) A substantial risk that physical harm to an eligible adult will occur because of his **or her** failure or inability to provide for his **or her** essential human needs as evidenced by acts or behavior which has caused such harm or which gives another person probable cause to believe that the eligible adult will sustain such harm;

(b) A substantial risk that physical harm will be inflicted by an eligible adult upon himself **or herself**, as evidenced by recent credible threats, acts, or behavior which has caused such harm or which places another person in reasonable fear that the eligible adult will sustain such harm;

(c) A substantial risk that physical harm will be inflicted by another upon an eligible adult as evidenced by recent acts or behavior which has caused such harm or which gives another person probable cause to believe the eligible adult will sustain such harm;

(d) A substantial risk that further physical harm will occur to an eligible adult who has suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting of his **or her** financial resources by another person;

[(11)**] (14)** "Neglect", the failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result;

[(12)**] (15)** "Protective services", services provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his **or her** essential human needs.

660.261. INVESTIGATIONS OF REPORTS OF ELIGIBLE ADULTS BETWEEN EIGHTEEN AND FIFTY-NINE, DEPARTMENT PROCEDURES. — Upon receipt of a report that an eligible adult between the ages of eighteen and fifty-nine is facing a likelihood of serious physical harm, the department shall:

(1) Investigate or refer the report to appropriate law enforcement **or state** agencies; and

(2) Provide services or refer to local community **or state** agencies.

660.270. PROCEDURE WHEN ABUSE, NEGLECT OR PHYSICAL HARM MAY BE INVOLVED — REMEDIES. — When the department receives a report that there **has been abuse or neglect, or that there otherwise** is a likelihood of serious physical harm to an eligible adult and that he **or she** is in need of protective services and the department is unable to conduct an investigation because access to the eligible adult is barred by any person, the director may petition the appropriate court for a warrant **or other order** to enter upon the described premises and investigate the report **or to produce the information**. The application for the warrant **or order** shall identify the eligible adult and the facts and circumstances which require the issuance of the warrant **or order**. The director may also seek an order to enjoin the person **from** barring access **to an eligible adult or** from interfering with the investigation. If the court finds that, based on the report and relevant circumstances and facts, probable cause exists showing that the eligible adult faces **abuse or neglect, or otherwise faces** a likelihood of serious physical harm and is in need of protective services and the director has been prevented by another person from investigating the report, the court may issue the warrant or enjoin the interference with the investigation or both.

660.300. REPORT OF ABUSE OR NEGLECT OF IN-HOME SERVICES OR HOME HEALTH AGENCY CLIENT, DUTY — PENALTY — CONTENTS OF REPORT — INVESTIGATION, PROCEDURE — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED, PENALTY — EMPLOYEE DISQUALIFICATION LIST — SAFE-AT-HOME EVALUATIONS, PROCEDURE. — 1. **[**Beginning January 1, 1993, when any physician, dentist, chiropractor,

optometrist, podiatrist, intern, nurse, medical examiner, social worker, psychologist, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, in-home services owner, in-home services operator, in-home services employee, or employee of the department of social services or of the department of health and senior services or of the department of mental health**]** **When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker** has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he **or she** shall immediately report or cause a report to be made to the department. **If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.**

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

[2.**]** **4.** Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

[3.**]** **5.** The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, **the home health agency, the home health agency employee,** information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

[4.**]** **6.** In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client **or home health patient** has been abused or neglected by an in-home services employee **or home health agency employee** may report such information to the department.

[5. Upon receipt of a report, the department shall initiate a prompt and thorough investigation.

6.**]** **7.** If the investigation indicates possible abuse or neglect of an in-home services client **or home health patient**, the investigator shall refer the complaint together with his **or her** report to the department director or his **or her** designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate **[**removal**]** **action** is necessary to protect the in-home services client **or home health patient** from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client **or home health patient** in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte

order granting the department authority for the temporary care and protection of the in-home services client **or home health patient**, for a period not to exceed thirty days.

[7.**]** **8.** Reports shall be confidential, as provided under section 660.320.

[8.**]** **9.** Anyone, except any person who has abused or neglected an in-home services client **or home health patient**, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

[9.**]** **10.** Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

[10.**]** **11.** No person who directs or exercises any authority in an in-home services provider agency **or home health agency** shall harass, dismiss or retaliate against an in-home services client **or home health patient,** or an in-home services employee **or a home health agency employee** because he or any member of his **or her** family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency **or home health agency** or any in-home services employee **or home health agency employee** which he has reasonable cause to believe has been committed or has occurred.

[11.**]** **12.** Any person who **[**knowingly**]** abuses or neglects an in-home services client **[**shall be guilty of a class D felony.**]** **or home health patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621, RSMo. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.**

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

[12.**]** **14.** The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or neglected an in-home services client **or home health patient** while employed by an in-home services provider agency **or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation. Any in-home services provider agency or home health agency that knowingly employs a person who refuses to register with the family care safety registry or who is listed on any of the background check lists in the family care safety**

registry, pursuant to sections 210.900 to 210.937, RSMo, is guilty of a class A misdemeanor.

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536, RSMo. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been pre-authorized by the department.

17. All in-home services clients shall be advised of their rights by the department at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

18. Subject to appropriations, all nurse visits authorized in sections 660.250 to 660.300 shall be reimbursed to the in-home services provider agency.

660.305. IN-HOME SERVICES CLIENT, MISAPPROPRIATION OF PROPERTY, REPORT — INVESTIGATION — PENALTY — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED — EMPLOYEE DISQUALIFICATION LIST. — 1. Any person having reasonable cause to believe that a misappropriation of an in-home services client's property or funds, or the falsification of any documents verifying service delivery to the in-home services client has occurred, may report such information to the department.

2. For each report the **[**division**]** **department** shall attempt to obtain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, information regarding the nature of the misappropriation or falsification, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any in-home services provider agency or in-home services employee who puts to his **or her** own use or the use of the in-home services provider agency or otherwise diverts from the in-home services client's use any personal property or funds of the in-home services client, or falsifies any documents for service delivery, **[**shall be**]** **is** guilty of a class A misdemeanor.

4. Upon receipt of a report, the department shall **immediately** initiate an investigation **and report information gained from such investigation to appropriate law enforcement authorities**.

5. If the investigation indicates probable misappropriation of property or funds, or falsification of any documents for service delivery of an in-home services client, the investigator

shall refer the complaint together with **[**his**]** **the investigator's** report to the department director or **[**his**]** **the director's** designee for appropriate action.

6. Reports shall be confidential, as provided under section 660.320.

7. Anyone, except any person participating in or benefiting from the misappropriation of funds, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

8. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

9. No person who directs or exercises any authority in an in-home services provider agency shall harass, dismiss or retaliate against an in-home services client or employee because he **or she** or any member of his **or her** family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the in-home services provider agency or any in-home services employee which he **or she** has reasonable cause to believe has been committed or has occurred.

10. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who **are or have been employed by an in-home service provider agency and who** have been finally determined by the department to, pursuant to section 660.315, have misappropriated any property or funds, or falsified any documents for service delivery of an in-home services client **and who came to be known to the person, directly, or indirectly** while employed by an in-home services provider agency.

660.310. ALTERATION OF IN-HOME SERVICES PROVIDER AGENCY CONTRACTS, PROCEDURE — LETTERS OF CENSURE — STAYING OF SUSPENSIONS — APPEAL PROCESS. — 1. Notwithstanding any other provision of law, if the department of health and senior services proposes to deny, suspend, place on probation, or terminate an in-home services provider agency contract, the department of health and senior services shall serve upon the applicant or contractor written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or contractor shall have thirty days from the date of mailing or delivery of the notice to file a complaint requesting a hearing before the administrative hearing commission. The administrative hearing commission may consolidate an applicant's or contractor's complaint with any proceeding before the administrative hearing commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156, RSMo, involving a common question of law or fact. Upon the filing of the complaint, the provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145, RSMo, shall apply. With respect to cases in which the department has denied a contract to an in-home services provider agency, the administrative hearing commission shall conduct a hearing to determine the underlying basis for such denial. However, if the administrative hearing commission finds that the contract denial is supported by the facts and the law, the case need not be returned to the department. The administrative hearing commission's decision shall constitute affirmation of the department's contract denial.

2. The department of health and senior services may issue letters of censure or warning without formal notice or hearing.

3. The administrative hearing commission may stay the suspension or termination of an in-home services provider agency's contract, or the placement of the contractor on probation, pending the commission's findings and determination in the cause, upon such conditions, with or without the agreement of the parties, as the commission deems necessary and appropriate, including the posting of bond or other security except that the

commission shall not grant a stay, or if a stay has already been entered shall set aside its stay, unless the commission finds that the contractor has established that servicing the department's clients pending the commission's final determination would not present an imminent danger to the health, safety, or welfare of any client or a substantial probability that death or serious physical harm would result. The commission may remove the stay at any time that it finds that the contractor has violated any of the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the commission, pending the decision of the commission and any subsequent departmental action at which time the stay shall be removed. In any case in which the department has refused to issue a contract, the commission shall have no authority to stay or to require the issuance of a contract pending final determination by the commission.

4. Stays granted to contractors by the administrative hearing commission shall, as a condition of the stay, require at a minimum that the contractor under the stay operate under the same contractual requirements and regulations as are in effect, from time to time, as are applicable to all other contractors in the program.

5. The administrative hearing commission shall make its final decision based upon the circumstances and conditions as they existed at the time of the action of the department and not based upon circumstances and conditions at the time of the hearing or decision of the commission.

6. In any proceeding before the administrative hearing commission pursuant to this section, the burden of proof shall be on the contractor or applicant seeking review.

7. Any person, including the department, aggrieved by a final decision of the administrative hearing commission may seek judicial review of such decision as provided in section 621.145, RSMo.

660.315. EMPLOYEE DISQUALIFICATION LIST, NOTIFICATION OF PLACEMENT, CONTENTS — CHALLENGE OF ALLEGATION, PROCEDURE — HEARING, PROCEDURE — APPEAL — REMOVAL OF NAME FROM LIST — LIST PROVIDED TO WHOM — PROHIBITION OF EMPLOYMENT. — 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his **or her** last known address that:

(1) An allegation has been made against **[**him**]** **the person**, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) **[**His**]** **The person's** name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) **[**His**]** **The person's** rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or **[**his**]** **the director's** designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, **[**he**]** **such person** may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without notice by the department, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the **[**division of aging or his**]** **department or the director's** designee. The provisions of

chapter 536, RSMo, for a contested case except those provisions or amendments which are in conflict with this section, shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536, RSMo, relevant to the allegations.

6. Upon the record made at the hearing, the director of the **[**division of aging**]** **department or the director's designee** shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the **[**division of aging**]** **department or the director's designee** shall clearly state the reasons for his **or her** decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his **or her** right to seek judicial review as provided under chapter 536, RSMo. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is brought against the facility or the in-home services provider agency by the department of **[**social services**]** **health and senior services** or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director **[**or his**]** **of the department of health and senior services or the director's** designee, based upon the following:

(1) Whether the person acted recklessly**[**,**]** **or** knowingly **[**or purposely**]**, as defined in chapter 562, RSMo;

(2) The degree of the **[**infliction of**]** physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances; **[**and**]**

(6) **Any aggravating circumstances; and**

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the **[**division's**]** **department of health and senior services'** requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation or association who:

(1) Is licensed as an operator under chapter 198, RSMo;

(2) Provides in-home services under contract with the department;

(3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training; or

(5) Is an entity licensed under chapter 197, RSMo.

The department shall inform any person listed above who inquires of the **[**division of aging**]** **department** whether or not a particular name is on the list. The **[**division**]** **department** may require that the request be made in writing.

12. No person, corporation or association who received the employee disqualification list under subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation or association who received the employee disqualification list under subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. **Any employer who is required to discharge an employee because the employee was placed on a disqualification list maintained by the department of health and senior services after the date of hire shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, RSMo.**

14. Any person who has been listed on the employee disqualification list may request that the director remove his **or her** name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

660.317. CRIMINAL BACKGROUND CHECKS OF EMPLOYEES, REQUIRED WHEN — PERSONS WITH CRIMINAL HISTORY NOT TO BE HIRED, WHEN, PENALTY — FAILURE TO DISCLOSE, PENALTY — DEFINITIONS — RULES TO WAIVE HIRING RESTRICTIONS. — 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

(1) Is licensed as an operator pursuant to chapter 198, RSMo;

(2) Provides in-home services under contract with the department;

(3) Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities; **[**or**]**

(4) Is an entity licensed pursuant to chapter 197, RSMo;

(5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health**; or**

(6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540, RSMo.

3. **[**Beginning August 28, 1997, not later than two working days of hiring any person for**] Prior to allowing any person who has been hired as** a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the case of temporary employees hired through **or contracted for** an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(1) Request a criminal background check as provided in section 43.540, RSMo. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence**. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider**

shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's criminal records divisions. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a licensed Missouri facility during that five year period. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of **[**social services**]** **health and senior services**, whether the person is listed on the employee disqualification list as provided in section 660.315.

4. When the provider requests a criminal background check pursuant to section **[**43.530**]** **43.540**, RSMo, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. **When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.**

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540, RSMo, so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315.

6. An applicant who knowingly fails to disclose his **or her** criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires **or retains** a person to have contact with patients or residents and the person has been convicted of, pled guilty to or nolo contendere in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or section 568.020, RSMo.

7. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

8. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private investigatory agency such fees as the provider and such agency shall agree.

9. The department of **[**social services**]** **health and senior services** shall promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

660.320. PROHIBITION AGAINST DISCLOSURE OF REPORTS, EXCEPTIONS — EMPLOYMENT SECURITY PROVIDED REPORTS UPON REQUEST. — 1. Reports confidential under section 198.070, RSMo, and sections 660.300 to 660.315 shall not be deemed a public record and shall not be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo. The name of the complainant or any person mentioned in the reports shall not be disclosed unless:

(1) The complainant, resident or the in-home services client mentioned agrees to disclosure of his **or her** name;

(2) The department determines that disclosure is necessary in order to prevent further abuse, neglect, misappropriation of property or funds, or falsification of any documents verifying service delivery to an in-home services client;

(3) Release of a name is required for conformance with a lawful subpoena;

(4) Release of a name is required in connection with a review by the administrative hearing commission in accordance with section 198.039, RSMo;

(5) The department determines that release of a name is appropriate when forwarding a report of findings of an investigation to a licensing authority; or

(6) Release of a name is requested by the division of family services for the purpose of licensure under chapter 210, RSMo.

2. The department shall, upon request, provide to the division of employment security within the department of labor and industrial relations copies of the investigative reports that led to an employee being placed on the disqualification list.

660.321. CONFIDENTIALITY OF RECORDS, RECORDS DISCLOSED, WHEN. — Notwithstanding any other provision of law, the department shall not disclose personally identifiable medical, social, personal, or financial records of any eligible adult being served by the division of senior services except when disclosed in a manner that does not identify the eligible adult, or when ordered to do so by a court of competent jurisdiction. Such records shall be accessible without court order for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department for such purposes as the department may determine;

(2) The attorney general, to perform his or her constitutional or statutory duties;

(3) The department of mental health for residents placed through that department, to perform its constitutional or statutory duties;

(4) Any appropriate law enforcement agency, to perform its constitutional or statutory duties;

(5) The eligible adult, his or her legal guardian or any other person designated by the eligible adult; and

(6) The department of social services for individuals who receive Medicaid benefits, to perform its constitutional or statutory duties.

660.603. OFFICE OF STATE OMBUDSMAN FOR LONG-TERM CARE FACILITY RESIDENTS CREATED IN DEPARTMENT OF HEALTH AND SENIOR SERVICES — PURPOSE — POWERS AND DUTIES. — 1. There is hereby established within the **[**division of aging**]** **department of health and senior services** the "Office of State Ombudsman for Long-Term Care Facility Residents", for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. 3001, et seq.

2. The office shall be administered by the state ombudsman, who shall devote his **or her** entire time to the duties of his **or her** position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of residents of long-term care

facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.

4. The **[**division**]** **department** shall establish and implement procedures for resolution of complaints. The ombudsman or representatives of the office shall have the authority to:

(1) Enter any long-term care facility and have access to residents of the facility at a reasonable time and in a reasonable manner. The ombudsman shall have access to review resident records, if given permission by the resident or the resident's legal guardian. Residents of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

(2) Make the necessary inquiries and review such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities and services in the state and shall recommend to the **[**division**]** **department** changes in such laws, regulations and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with residents of facilities through the use of volunteers and volunteer programs directed by the regional ombudsman coordinators.

8. The office shall develop and establish by regulation of the **[**division**]** **department** statewide policies and standards for implementing the activities of the ombudsman program, including the qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

9. The office shall develop and propose programs for use, training and coordination of volunteers in conjunction with the regional ombudsman coordinators and may:

(1) Establish and conduct recruitment programs for volunteers;

(2) Establish and conduct training seminars, meetings and other programs for volunteers; and

(3) Supply personnel, written materials and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

10. The regional ombudsman coordinators and ombudsman volunteers shall have the authority to report instances of abuse and neglect to the ombudsman hotline operated by the department.

11. If the regional ombudsman coordinator or volunteer finds that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the state ombudsman shall be notified. The department shall establish procedures by rule in accordance with chapter 536, RSMo, for implementation of this subsection.

[10.**]** **12.** The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

[11.**]** **13.** The administrator of each facility shall ensure that such written notice is given to every resident or **[**his**]** **the resident's** guardian upon admission to the facility and to every person already in residence, or to his guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the regulations adopted by the **[**division**]** **department**.

[12.**]** **14.** The office shall inform residents, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

[197.725. NECESSARY PROVIDER HOSPITAL, DEFINED, LICENSE — RULES. — 1. The department of health and senior services shall establish procedures for the licensing of necessary provider hospitals. For purposes of this section, "necessary provider hospital" means an existing hospital, as defined in section 197.020, that is located outside a Standard Metropolitan Area and that:

(1) Provides inpatient care to ill or injured persons prior to their transportation to a hospital or provides inpatient medical care to persons needing such care for a period of no longer than ninety-six hours with exceptions as authorized by federal Medicare law and regulations;

(2) May have up to fifteen acute care inpatient beds and may participate in the federal swing-bed program for up to ten additional beds;

(3) Makes available emergency services on a twenty-four-hour basis; and

(4) Is required to have formal agreements with at least one hospital and other appropriate providers for such services as patient referral and transfer, communication systems, provision of emergency and nonemergency transportation, and backup medical and emergency services.

2. The department of health and senior services may promulgate rules and regulations to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the provisions of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.**]**

Approved June 16, 2003

SB 562 [SCS SB 562]

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 located in St. Louis County to the City of Pacific.

AN ACT to authorize the conveyance of property owned by the state at the Missouri Eastern Correctional facility in the County of St. Louis to the City of Pacific.

SECTION

1. Conveyance of property at the Eastern Correctional Facility in St. Louis County to the city of Pacific.

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

SECTION 1. CONVEYANCE OF PROPERTY AT THE EASTERN CORRECTIONAL FACILITY IN ST. LOUIS COUNTY TO THE CITY OF PACIFIC. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state at the Missouri Eastern Correctional facility in the County of St. Louis to the City of Pacific. The property to be conveyed is more particularly described as follows:

A tract of land in part of section 8, township 43 north, range 3 east in St. Louis County Missouri, commencing at the northeast corner of the Eureka Fire Protection District training facility as recorded in Plat Book 350 page 811 of the St. Louis County land records; thence south 33 degrees 53 minutes 14 seconds east a distance of 86.14 feet to the point of beginning of the tract herein described; thence south 38 degrees 27 minutes

08 seconds west a distance of 93.53 feet to a point; thence south 51 degrees 32 minutes 52 seconds east a distance of 80.00 feet to a point; thence north 38 degrees 27 minutes 08 seconds east a distance of 20.19 feet to a point; thence along a curve to the right having a radius of 35.00 feet, an arc length of 65.77 feet and a delta of 107 degrees 40 minutes 01 seconds to a point; thence north 33 degrees 53 minutes 14 seconds west a distance of 131.83 feet to the point of beginning containing 6,988 square feet as calculated by Marler Surveying Company Inc., in February 2003.

An easement strip being 10.0 feet in width, affecting part of the plat of the Eureka Fire Protection District training facility, being in section 8, township 43 north, range 3 east, as recorded in Plat Book 350 page 811 of the St. Louis County land records office, more particularly described as follows:

Commencing at the northeast corner of the aforesaid plat, thence south 33 degrees 53 minutes 14 seconds east a distance of 86.14 feet to a point; thence south 38 degrees 27 minutes 08 seconds west a distance of 93.53 feet to a point; thence south 51 degrees 32 minutes 52 seconds east a distance of 80.00 feet to a point; thence north 38 degrees 27 minutes 08 seconds east 10.56 feet to the point of beginning of aforesaid easement; thence south 12 degrees 47 minutes 05 seconds east a distance of 560.24 feet to a point on the southern line of the aforesaid plat, being north 38 degrees 27 minutes 00 seconds east a distance of 26.70 feet of the southwestern corner of the aforesaid plat;

and additionally such trunk sewer line and related sewer facilities commencing in and from such tract of land, traversing said easement, and extending continuously into and within State Route Old Highway 66 (Business Loop I-44) westerly into the City limits of the City of Pacific and extending thence to and within right-of-way of the City of Pacific and terminating at Lift Station NO. 1 of the City Pacific, as such facilities were installed pursuant to a certain sewer agreement between the City of Pacific and the Missouri Department of Social Services dated October 23, 1979, as amended, and as hereinafter may be more fully described.

and such additional appurtenances or related property as may be necessary to accomplish the transfer of the described sewer facilities.

2. In conjunction with the transfer of property and sewer facilities authorized in subsection 1 of this section, the Missouri department of corrections and the Missouri department of transportation are hereby further authorized to consent to a municipal boundary adjustment to include within the jurisdictional boundaries of the City of Pacific the public property and rights-of-way described in this subsection. Notwithstanding any provision to the contrary, the jurisdictional boundary adjustment of public property authorized in this subsection may be effected by submission of a petition by each affected public agency to the city and shall be effective upon adoption of an ordinance by the city approving such boundary adjustment. The property subject to the boundary adjustment authorized by this subsection may include the Missouri Eastern Correctional Center property and all such public property and right-of-way containing the sewer facilities subject to subsection 1 of this section, and including such portions of State Route Old Highway 66 (Business Loop I-44) from the existing boundary of the City of Pacific to the eastern line of the Missouri Eastern Correctional Center property.

3. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

4. The attorney general shall approve the form of the instrument of conveyance.

Approved July 9, 2003

SB 577 [SB 577]

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 conveyance of an easement in the form of a right-of-way in the City of St. Joseph.

AN ACT to authorize the governor to convey state property to the city of St. Joseph, Missouri.

SECTION
1. Conveyance of property by the state to the city of St. Joseph for a public road right-of-way.

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

SECTION 1. CONVEYANCE OF PROPERTY BY THE STATE TO THE CITY OF ST. JOSEPH FOR A PUBLIC ROAD RIGHT-OF-WAY. — 1. The governor is hereby authorized to convey property to the city of St. Joseph, Missouri, for the purpose of public road right-of-way. The tract being a part of a tract of land composed of a part of the northeast quarter of section 10, township 58 north, range 35 west; Buchanan County, Missouri, more particularly described as follows:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 10, THENCE WESTERLY ALONG THE NORTH LINE OF THE NORTHEAST QUARTER A DISTANCE OF 485.00 FEET TO A POINT, THENCE SOUTHERLY ALONG A LINE 485.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 54.80 FEET TO A POINT, THENCE EASTERLY ALONG A LINE 54.80 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE NORTHEAST QUARTER A DISTANCE OF 47.64 FEET TO A POINT, THENCE SOUTHEASTERLY TO A POINT ON THE EAST LINE OF SAID NORTHEAST QUARTER 85.94 FEET SOUTH OF THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER, THENCE NORTHERLY ALONG THE EAST LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 85.94 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS AN AREA OF 0.14 ACRES MORE OR LESS EXCLUDING EXISTING RIGHT-OF-WAY.

2. The attorney general shall approve as to form the instruments of conveyance.

3. Consideration for the conveyance of title to the parcel of property 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.

Approved June 9, 2003

SB 578 [SB 578]

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 conveyance of land owned by the state in Platte County.

AN ACT to authorize the governor to convey a tract of land owned by the state in the county of Platte.

SECTION
1. Public sale and conveyance by the state of the Trimble Microwave Relay Site.

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

SECTION 1. PUBLIC SALE AND CONVEYANCE BY THE STATE OF THE TRIMBLE MICROWAVE RELAY SITE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state in the county of Platte known as the Trimble Microwave Relay Site. The property to be conveyed is more particularly described as follows:

A tract of land in the Northeast Quarter of Section 29, Township 54, Range 33, Platte County, Missouri, described as follows: Beginning at the Northeast corner of said Section 29; thence South 0 degrees 41'50" West along the East line of the Northeast Quarter of said Section 29, 417.42 feet; thence West parallel to the North line of the Northeast Quarter of said Section 29, 417.42 feet; thence North 0 degrees 41'50" East parallel to the East line of the Northeast Quarter of said Section 29, 417.42 feet to a point on the North line of the Northeast Quarter of said Section 29; thence East along said North line 417.42 feet to the point of beginning, subject to public road and easements of record.

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; and whether to utilize a public auctioneer or licensed real estate broker to market the property. Any auctioneer or broker employed to market the property shall receive the customary fee. All costs and fees, directly related to such sale, shall be paid from the proceeds of such sale. The proceeds of such sale shall be equally divided between Missouri Western State College and the University of Missouri, Kansas City.

3. The attorney general shall approve as to form the instrument of conveyance.

Approved May 30, 2003

SB 598 [SB 598]

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

Establishes the Corporal Bobbie J. Harper Memorial Highway on U.S. Highway 71 in McDonald County.

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the creation of the Corporal Bobbie J. Harper Memorial Highway.

SECTION
A. Enacting clause.
227.338. Corporal Bobbie J. Harper Memorial Highway, portion of U.S. Highway 71 in McDonald County designated as.

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 227.338, to read as follows:

227.338. CORPORAL BOBBIE J. HARPER MEMORIAL HIGHWAY, PORTION OF U.S. HIGHWAY 71 IN MCDONALD COUNTY DESIGNATED AS. — The portion of U.S. Highway 71, located within a county of the third classification without a township form of government and with more than twenty-one thousand six hundred but less than twenty-one thousand seven hundred inhabitants shall be designated the "Corporal Bobbie J. Harper Memorial Highway".

Approved July 11, 2003

SB 606 [SB 606]

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 natural resources to convey state land in certain situations.

AN ACT to amend chapter 253, RSMo, by adding thereto one new section relating to conveyances of land by the department of natural resources.

SECTION
A. Enacting clause.
253.043. Conveyance by department of natural resources of five acres for fair market exchange.

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

SECTION A. ENACTING CLAUSE. — Chapter 253, RSMo, is amended by adding thereto one new section, to be known as section 253.043, to read as follows:

253.043. CONVEYANCE BY DEPARTMENT OF NATURAL RESOURCES OF FIVE ACRES FOR FAIR MARKET EXCHANGE. — The department is authorized to convey up to five acres of land as part of a land trade with adjacent property owners to resolve park boundary conflicts, so long as the department receives land of equal or greater fair market value in exchange.

Approved May 30, 2003

SB 611 [SB 611]

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 agricultural and mechanical societies to borrow money and mortgage property.

AN ACT to repeal section 262.290, RSMo, and to enact in lieu thereof one new section relating to county agricultural and mechanical societies.

SECTION
A. Enacting clause.
262.290. Incorporation, procedure — powers — buildings and improvements — exception.

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

SECTION A. ENACTING CLAUSE. — Section 262.290, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 262.290, to read as follows:

262.290. INCORPORATION, PROCEDURE — POWERS — BUILDINGS AND IMPROVEMENTS — EXCEPTION. — Whenever fifty or more registered voters of this state shall present a petition to the county commission of the county in which they or a majority of them reside, stating therein that they desire to organize and be incorporated for the purpose of promoting improvements in agriculture, manufacture and the raising of stock, and setting forth in such petition the name and location to be adopted by the proposed incorporation, the name to be "The (name of county) Agricultural and Mechanical Society of (name of town or city where the office of said society is to be located)", and the county commission shall be satisfied that such persons are registered voters of this state, the county commission shall, by order, declare the petitioners incorporated for the purpose specified in this section, and thenceforth the petitioners shall be a body politic and corporate by the name and style adopted, and by that name they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts and in all actions, pleas and matters whatsoever, **shall have the authority to borrow money,** and shall have power to purchase, hold, lease, rent**, mortgage,** and receive any quantity of land with such buildings and improvements as may be placed thereon, and any other property and may, by vote, determine that thereafter the members of such society shall be composed of such persons as shall subscribe at least one share of the capital stock thereof, in shares not exceeding five hundred dollars each, said shares to be personal property and transferable by agreement; but no transfer shall be binding on the society until reported in writing and approved by the board of directors. The amount of such capital stock shall, from time to time, be fixed by the stockholders or board of directors, provided the same shall at no time exceed two million dollars, and the board of directors may convey, lease, sell and dispose of the property of the society, or any part thereof, for the benefit of the society and have a common seal, and break and alter the same at pleasure.

Approved July 11, 2003

SB 618 [SB 618]

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

Requires the Department of Mental Health to develop a state suicide prevention plan.

AN ACT to amend chapter 630, RSMo, by adding thereto one new section relating to suicide.

SECTION
A. Enacting clause.
630.900. State suicide prevention plan to be submitted to general assembly, when — contents.

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

SECTION A. ENACTING CLAUSE. — Chapter 630, RSMo, is amended by adding thereto one new section, to be known as section 630.900, to read as follows:

630.900. STATE SUICIDE PREVENTION PLAN TO BE SUBMITTED TO GENERAL ASSEMBLY, WHEN — CONTENTS. — 1. The director of the department of mental health, in partnership with the department of health and senior services and in collaboration with the departments of social services, elementary and secondary education, higher education, and corrections, and other appropriate agencies, organizations, and institutions in the community, shall design a proposed state suicide prevention plan using an evidence-based public health approach focused on suicide prevention.

2. The plan shall include, but not be limited to:

(1) Promoting the use of employee assistance and workplace programs to support employees with depression and other psychiatric illnesses and substance abuse disorders, and refer them to services. In promoting such programs, the director shall collaborate with employer and professional associations, unions, and safety councils;

(2) Promoting the use of student assistance and educational programs to support students with depression and other psychiatric illnesses and substance abuse disorders. In promoting such programs, the director shall collaborate with educators, administrators, students, and parents with emphasis on identification of the risk factors associated with suicide;

(3) Providing training and technical assistance to local public health and other community-based professionals to provide for integrated implementation of best practices for preventing suicides;

(4) Establishing a toll-free suicide prevention hotline; and

(5) Coordinating with federal, state, and local agencies to collect, analyze, and annually issue a public report on Missouri-specific data on suicide and suicidal behaviors.

3. The proposed state suicide prevention plan designed and developed pursuant to this section shall be submitted to the general assembly by December 31, 2004, and shall include any recommendations regarding statutory changes and implementation and funding requirements of the plan.

Approved July 11, 2003

SB 620 [SCS SB 620]

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 BUILD program and implements certain job retention provisions.

AN ACT to repeal sections 99.845, 100.710, 100.840, 100.850, and 178.892, RSMo, and to enact in lieu thereof ten new sections relating to job retention programs in the department of economic development, with contingent expiration dates and an emergency clause.

SECTION

A. Enacting clause.
99.845. Tax increment financing adoption — division of ad valorem taxes — payments in lieu of tax, deposit, inclusion and exclusion of current equalized assessed valuation for certain purposes, when — other taxes included, amount — supplemental tax increment financing fund established, disbursement.
100.710. Definitions.
100.840. Board, powers to borrow money — issue and sell certificates — sale or exchange of refunding certificates — certificates not indebtedness of state.
100.850. Assessments remittal, job development assessment fee — company records available to board, when — when remitted assessment ceases — tax credit amount, cap, claiming credit — refunds.
135.276. Definitions.
135.277. Taxable income of retained business facility exempt from income taxation, amount.

135.279. Tax credit, amount (Hazelwood Ford Plant) — calculation and limitations on credit.
135.281. Application for income tax refund (Hazelwood Ford Plant) — approval procedures.
135.283. Program application — approval by department — executed agreement required, contents.
178.892. Definitions.
B. Contingent expiration dates.
C. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 99.845, 100.710, 100.840, 100.850, and 178.892, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 99.845, 100.710, 100.840, 100.850, 135.276, 135.277, 135.279, 135.281, 135.283, and 178.892, to read as follows:

99.845. TAX INCREMENT FINANCING ADOPTION — DIVISION OF AD VALOREM TAXES — PAYMENTS IN LIEU OF TAX, DEPOSIT, INCLUSION AND EXCLUSION OF CURRENT EQUALIZED ASSESSED VALUATION FOR CERTAIN PURPOSES, WHEN — OTHER TAXES INCLUDED, AMOUNT — SUPPLEMENTAL TAX INCREMENT FINANCING FUND ESTABLISHED, DISBURSEMENT. — 1. A municipality, either at the time a redevelopment project is approved or, in the event a municipality has undertaken acts establishing a redevelopment plan and redevelopment project and has designated a redevelopment area after the passage and approval of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are in conformance with the procedures of sections 99.800 to 99.865, may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 2 of section 99.855 each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:

(1) That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;

(2) Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid to the municipal treasurer who shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation Fund" of the municipality for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable. The municipality may, in the ordinance, pledge the funds in the special allocation fund for the payment of such costs and obligations and provide for the collection of payments in lieu of taxes, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in section 88.861, RSMo. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of property in the area selected for the redevelopment project attributable to any increase above the total initial equalized assessed value of such properties shall be used in calculating the general state school aid formula

provided for in section 163.031, RSMo, until such time as all redevelopment costs have been paid as provided for in this section and section 99.850;

(3) For purposes of this section, "levies upon taxable real property in such redevelopment project by taxing districts" shall not include the blind pension fund tax levied under the authority of article III, section 38(b) of the Missouri Constitution, or the merchants' and manufacturers' inventory replacement tax levied under the authority of subsection 2 of section 6 of article X, of the Missouri Constitution, except in redevelopment project areas in which tax increment financing has been adopted by ordinance pursuant to a plan approved by vote of the governing body of the municipality taken after August 13, 1982, and before January 1, 1998.

2. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after July 12, 1990, and prior to August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest imposed by the municipality, or other taxing districts, which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, RSMo, licenses, fees or special assessments other than payments in lieu of taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant to section 94.660, RSMo, for the purpose of public transportation, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. Any provision of an agreement, contract or covenant entered into prior to July 12, 1990, between a municipality and any other political subdivision which provides for an appropriation of other municipal revenues to the special allocation fund shall be and remain enforceable.

3. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest which are imposed by the municipality or other taxing districts, and which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, RSMo, or effective January 1, 1998, taxes levied for the purpose of public transportation pursuant to section 94.660, RSMo, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund.

4. Beginning January 1, 1998, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance and which have complied with subsections 4 to 12 of this section, in addition to the payments in lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of this section, up to fifty percent of the new state revenues, as defined in subsection 8 of this section, estimated for the businesses within the project area and identified by the municipality in the application required by subsection 10 of this section, over and above the amount of such taxes reported by businesses within the project area as identified by the municipality in their application prior to the approval of the redevelopment project by ordinance, while tax increment financing remains in effect, may be available for appropriation by the general assembly as provided in subsection 10 of this section to the department of

economic development supplemental tax increment financing fund, from the general revenue fund, for distribution to the treasurer or other designated financial officer of the municipality with approved plans or projects.

5. The treasurer or other designated financial officer of the municipality with approved plans or projects shall deposit such funds in a separate segregated account within the special allocation fund established pursuant to section 99.805.

6. No transfer from the general revenue fund to the Missouri supplemental tax increment financing fund shall be made unless an appropriation is made from the general revenue fund for that purpose. No municipality shall commit any state revenues prior to an appropriation being made for that project. For all redevelopment plans or projects adopted or approved after December 23, 1997, appropriations from the new state revenues shall not be distributed from the Missouri supplemental tax increment financing fund into the special allocation fund unless the municipality's redevelopment plan ensures that one hundred percent of payments in lieu of taxes and fifty percent of economic activity taxes generated by the project shall be used for eligible redevelopment project costs while tax increment financing remains in effect. This account shall be separate from the account into which payments in lieu of taxes are deposited, and separate from the account into which economic activity taxes are deposited.

7. In order for the redevelopment plan or project to be eligible to receive the revenue described in subsection 4 of this section, the municipality shall comply with the requirements of subsection 10 of this section prior to the time the project or plan is adopted or approved by ordinance. The director of the department of economic development and the commissioner of the office of administration may waive the requirement that the municipality's application be submitted prior to the redevelopment plan's or project's adoption or the redevelopment plan's or project's approval by ordinance.

8. For purposes of this section, "new state revenues" means:

(1) The incremental increase in the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated facility shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as stated in the redevelopment plan as provided in subsection 10 of this section; or

(2) The state income tax withheld on behalf of new employees by the employer pursuant to section 143.221, RSMo, at the business located within the project as identified by the municipality. The state income tax withholding allowed by this section shall be the municipality's estimate of the amount of state income tax withheld by the employer within the redevelopment area for new employees who fill new jobs directly created by the tax increment financing project.

9. Subsection 4 of this section shall apply only to blighted areas located in enterprise zones, pursuant to sections 135.200 to 135.256, RSMo, blighted areas located in federal empowerment zones, or to blighted areas located in central business districts or urban core areas of cities which districts or urban core areas at the time of approval of the project by ordinance, provided that the enterprise zones, federal empowerment zones or blighted areas contained one or more buildings at least fifty years old; and

(1) Suffered from generally declining population or property taxes over the twenty-year period immediately preceding the area's designation as a project area by ordinance; or

(2) Was a historic hotel located in a county of the first classification without a charter form of government with a population according to the most recent federal decennial census in excess of one hundred fifty thousand and containing a portion of a city with a population according to the most recent federal decennial census in excess of three hundred fifty thousand.

10. The initial appropriation of up to fifty percent of the new state revenues authorized pursuant to subsections 4 and 5 of this section shall not be made to or distributed by the department of economic development to a municipality until all of the following conditions have been satisfied:

(1) The director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee have approved a tax increment financing application made by the municipality for the appropriation of the new state revenues. The municipality shall include in the application the following items in addition to the items in section 99.810:

(a) The tax increment financing district or redevelopment area, including the businesses identified within the redevelopment area;

(b) The base year of state sales tax revenues or the base year of state income tax withheld on behalf of existing employees, reported by existing businesses within the project area prior to approval of the redevelopment project;

(c) The estimate of the incremental increase in the general revenue portion of state sales tax revenue or the estimate for the state income tax withheld by the employer on behalf of new employees expected to fill new jobs created within the redevelopment area after redevelopment;

(d) The official statement of any bond issue pursuant to this subsection after December 23, 1997;

(e) An affidavit that is signed by the developer or developers attesting that the provisions of subdivision (1) of section 99.810 have been met and specifying that the redevelopment area would not be reasonably anticipated to be developed without the appropriation of the new state revenues;

(f) The cost-benefit analysis required by section 99.810 includes a study of the fiscal impact on the state of Missouri; and

(g) The statement of election between the use of the incremental increase of the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area;

(2) The methodologies used in the application for determining the base year and determining the estimate of the incremental increase in the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area shall be approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. Upon approval of the application, the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee shall issue a certificate of approval. The department of economic development may request the appropriation following application approval;

(3) The appropriation shall be either a portion of the estimate of the incremental increase in the general revenue portion of state sales tax revenues in the redevelopment area or a portion of the estimate of the state income tax withheld by the employer on behalf of new employees who fill new jobs created in the redevelopment area as indicated in the municipality's application, approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. At no time shall the aggregate annual appropriation of the new state revenues for redevelopment areas exceed fifteen million dollars;

(4) Redevelopment plans and projects receiving new state revenues shall have a duration of up to fifteen years, unless prior approval for a longer term is given by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee; except that, in no case shall the duration exceed twenty-three years.

11. In addition to the areas authorized in subsection 9 of this section, the funding authorized pursuant to subsection 4 of this section shall also be available in a federally approved levee

district, where construction of a levee begins after December 23, 1997, and which is contained within a county of the first classification without a charter form of government with a population between fifty thousand and one hundred thousand inhabitants which contains all or part of a city with a population in excess of four hundred thousand or more inhabitants.

12. There is hereby established within the state treasury a special fund to be known as the "Missouri Supplemental Tax Increment Financing Fund", to be administered by the department of economic development. The department shall annually distribute from the Missouri supplemental tax increment financing fund the amount of the new state revenues as appropriated as provided in the provisions of subsections 4 and 5 of this section if and only if the conditions of subsection 10 of this section are met. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the Missouri supplemental tax increment financing fund shall be disbursed per project pursuant to state appropriations.

13. All personnel and other costs incurred by the department of economic development for the administration and operation of subsections 4 to 12 of this section shall be paid from the state general revenue fund. On an annual basis, the general revenue fund shall be reimbursed for the full amount of such costs by the developer or developers of the project or projects for which municipalities have made tax increment financing applications for the appropriation of new state revenues, as provided for in subdivision (1) of subsection 10 of this section. The amount of costs charged to each developer shall be based upon the percentage arrived at by dividing the monetary amount of the application made by each municipality for a particular project by the total monetary amount of all applications received by the department of economic development.

14. For redevelopment plans or projects approved by ordinance that result in net new jobs from the relocation of a national headquarters from another state to the area of the redevelopment project, the economic activity taxes and new state tax revenues shall not be based on a calculation of the incremental increase in taxes as compared to the base year or prior calendar year for such redevelopment project, rather the incremental increase shall be the amount of total taxes generated from the net new jobs brought in by the national headquarters from another state. In no event shall this subsection be construed to allow a redevelopment project to receive an appropriation in excess of up to fifty percent of the new state revenues.

100.710. DEFINITIONS. — As used in sections 100.700 to 100.850, the following terms mean:

(1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;

(2) "Board", the Missouri development finance board as created by section 100.265;

(3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;

(4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;

(5) "Department", the Missouri department of economic development;

(6) "Director", the director of the department of economic development;

(7) "Economic development project":

(a) The acquisition of any real property by the board, the eligible industry, or its affiliate; or

(b) The fee ownership of real property by the eligible industry or its affiliate; and

(c) For both paragraphs (a) and (b) of subdivision (7) of this section, "economic development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and

facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

(8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project**. For an essential industry, a person employed on a full-time basis in an existing job at the economic development project averaging at least thirty-five hours per week may be considered an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850**;

(9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

(a) Invest a minimum of fifteen million dollars, or ten million dollars for an office industry, in an economic development project; and

(b) Create a minimum of one hundred new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo**. An industry that meets the definition of "essential industry" may be considered an eligible industry for the purposes of the program authorized by sections 100.700 to 100.850**;

(10) "Essential industry", a business that otherwise meets the definition of eligible industry except an essential industry shall:

(a) Be a targeted industry;

(b) Be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants;

(c) Have maintained at least two thousand jobs at the proposed economic development project site each year for a period of four years preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made and during the year in which said application is made;

(d) For the duration of the certificates, retain at the proposed economic development project site the level of employment that existed at the site in the taxable year immediately preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made; and

(e) Invest a minimum of five hundred million dollars in the economic development project by the end of the third year after the issuance of the certificates under this program;

[(10)**]** **(11)** "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state**. For an essential industry, an existing job may be considered a new job for the purposes of the program authorized by sections 100.700 to 100.850**;

[(11)**]** **(12)** "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;

[(12)**]** **(13)** "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:

(a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;

(e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and

(f) All other costs of a nature comparable to those described in this subdivision;

[(13)**]** **(14)** "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates**;**

(15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

100.840. BOARD, POWERS TO BORROW MONEY — ISSUE AND SELL CERTIFICATES — SALE OR EXCHANGE OF REFUNDING CERTIFICATES — CERTIFICATES NOT INDEBTEDNESS OF STATE. — 1. To provide funds for the present payment of the costs of economic development projects, the board may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. **[**The total amount of outstanding certificates sold by the board shall not exceed seventy-five million dollars.**]** The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board, and may bear interest at such rate or rates as the board shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. Certificates may be issued with respect

to a single project or multiple projects and may contain terms or conditions as the board may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. Certificates may be issued for the purpose of refunding a like, greater or lesser principal amount of certificates and may bear a higher, lower or equivalent rate of interest than the certificates being renewed or refunded.

3. The board shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

4. Certificates issued pursuant to this section shall not be deemed to be an indebtedness of the state or the board or of any political subdivision of the state.

100.850. ASSESSMENTS REMITTAL, JOB DEVELOPMENT ASSESSMENT FEE — COMPANY RECORDS AVAILABLE TO BOARD, WHEN — WHEN REMITTED ASSESSMENT CEASES — TAX CREDIT AMOUNT, CAP, CLAIMING CREDIT — REFUNDS. — 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. **In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million dollars annually.**

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceed the amount of the approved company's income tax.

135.276. DEFINITIONS. — As used in sections 135.276 to 135.283, the following terms mean:

(1) "Continuation of commercial operations", shall be deemed to occur during the first taxable year following the taxable year during which the business entered into an agreement with the department pursuant to section 135.283 in order to receive the tax exemption, tax credits and refundable credits authorized by sections 135.276 to 135.283;

(2) "Department", the department of economic development;

(3) "Director", the director of the department of economic development;

(4) "Enterprise zone", an enterprise zone created under section 135.210 that includes all or part of a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants;

(5) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(6) "NAICS", the industrial classification as such classifications are defined in the 1997 edition of the North American Industrial Classification System Manual as prepared by the Executive Office of the President, Office of Management and Budget;

(7) "Retained business facility", a facility in an enterprise zone operated by the taxpayer which satisfies the following requirements as determined by the department and included in an agreement with the department:

(a) The taxpayer agrees to a capital investment project at the facility of at least five hundred million dollars to take place over a period of two consecutive taxable years ending no later than the fifth taxable year after continuation of commercial operations;

(b) The taxpayer has maintained at least two thousand employees per year at the facility for each of the five taxable years preceding the year of continuation of commercial operations;

(c) The taxpayer agrees to maintain at least the level of employment that it had at the facility in the taxable year immediately preceding the year of continuation of commercial operations for ten consecutive taxable years beginning with the year of the continuation of commercial operations. Temporary layoffs necessary to implement the capital investment project will not be considered a violation of this requirement;

(d) The taxpayer agrees that the amount of the average wage paid by the taxpayer at the facility will exceed the average wage paid within the county in which the facility is located for ten consecutive taxable years beginning with the year of the continuation of commercial operations;

(e) Significant local incentives with respect to the project or retained facility have been committed, which incentives may consist of:

a. Cash or in-kind incentives derived from any nonstate source, including incentives provided by the affected political subdivisions, private industry and/or local chambers of commerce or similar such organizations; or

b. Relief from local taxes;

(f) Receipt of the tax exemption, tax credits, and refunds are major factors in the taxpayer's decision to retain its operations at the facility in Missouri and go forward with the capital investment project and not receiving the exemption, credits, and refunds will result in the taxpayer moving its operations out of Missouri; and

(g) There is at least one other state that the taxpayer verifies is being considered as the site to which the facility's operations will be relocated;

(8) "Retained business facility employee", a person employed by the taxpayer in the operation of a retained business facility during the taxable year for which the credit allowed by section 135.279 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute retained business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the retained business facility on a regular, full-time basis. The number of retained business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the retained business facility is in operation for less than the entire taxable year, the number of retained business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the retained business facility was in operation by the number of full calendar months during such period;

(9) "Retained business facility income", the Missouri taxable income, as defined in chapter 143, RSMo, derived by the taxpayer from the operation of the retained business facility. If a taxpayer has income derived from the operation of a retained business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the retained business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, RSMo, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The "property factor" is a fraction, the numerator of which is the retained business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32, RSMo;

(b) The "payroll factor" is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as retained business facility employees at the retained business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32, RSMo.

(10) "Retained business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the retained business facility after the date of continuation of commercial operations, which is used by the taxpayer in the operation of the retained business facility, during the taxable year for which the credit allowed by section 135.279 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, rail yards, and spurs shall not constitute retained business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The retained business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the retained business facility is in operation for less than an entire taxable year, the retained business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the retained business facility was in operation by the number of full calendar months during such period;

(11) "Revenue-producing enterprise", manufacturing activities classified as NAICS 336211.

135.277. TAXABLE INCOME OF RETAINED BUSINESS FACILITY EXEMPT FROM INCOME TAXATION, AMOUNT. — The provisions of chapter 143, RSMo, notwithstanding, one-half of the Missouri taxable income attributed to an approved retained business facility that is earned by a taxpayer operating the approved retained business facility may be exempt from taxation under chapter 143, RSMo. That portion of income attributed to the retained business facility shall be determined in a manner prescribed in paragraph (b) of subdivision (9) of section 135.276, except that compensation paid to truck drivers, rail, or barge vehicle operators shall be excluded from the fraction.

135.279. TAX CREDIT, AMOUNT (HAZELWOOD FORD PLANT) — CALCULATION AND LIMITATIONS ON CREDIT. — 1. Any taxpayer that operates an approved retained business facility in an enterprise zone may be allowed a credit, each year for ten years, in an amount determined pursuant to subsection 2 or 3 of this section, whichever is applicable, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, as follows:

(1) The credit allowed for each retained business facility employee shall be four hundred dollars, except that for each retained business facility employee that exceeds the level of employment set forth in paragraph (b) of subdivision (7) of section 135.276, the credit shall be five hundred dollars. Transfers from another facility operated by the taxpayer in the state will not count as retained business facility employees;

(2) An additional credit of four hundred dollars shall be granted for each twelve-month period that a retained business facility employee is a resident of an enterprise zone;

(3) An additional credit of four hundred dollars shall be granted for each twelve-month period that the person employed as a retained business facility employee is a person who, at the time of such employment by the new business facility, met the criteria as set forth in section 135.240;

(4) To the extent that expenses incurred by a retained business facility in an enterprise zone for the training of persons employed in the operation of the retained business facility is not covered by an existing federal, state, or local program, such retained business facility shall be eligible for a full tax credit equal to eighty percent of that portion of such training expenses which are in excess of four hundred dollars for each trainee who is a resident of an enterprise zone or who was at the time of such employment at the retained business facility unemployable or difficult to employ as defined in section 135.240, provided such credit shall not exceed four hundred dollars for each employee trained;

(5) The credit allowed for retained business facility investment shall be equal to the sum of ten percent of the first ten thousand dollars of such qualifying investment, plus five percent of the next ninety thousand dollars of such qualifying investment, plus two percent of all remaining qualifying investments within an enterprise zone. The taxpayer's retained business facility investment shall be reduced by the amount of investment made by the taxpayer or related taxpayer which was subsequently transferred to the retained business facility from another Missouri facility and for which credits authorized in this section are not being earned.

2. The credits allowed by subsection 1 of this section shall offset the greater of:

(1) Some portion of the income tax otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, with respect to such taxpayer's retained business facility income for the taxable year for which such credit is allowed; or

(2) If the taxpayer operates no other facility in Missouri, the credits allowed in subsection 1 of this section shall offset up to fifty percent or, in the case of an economic development project located within a distressed community as defined in section 135.530, seventy-five percent of the business income tax otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, if the business operates no other facilities in Missouri.

(3) If the taxpayer operates more than one facility in Missouri, the credits allowed in subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section 135.530, thirty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an economic development project located within a distressed community as defined in

section 135.530, thirty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision.

3. In the case where a person employed by the retained business facility is a resident of the enterprise zone for less than a twelve-month period, or in the case where a person employed as a retained business facility employee is a person who, at the time of such employment by the retained business facility, met the criteria as set forth in section 135.240, is employed for less than a twelve-month period, the credits allowed by subdivisions (2) and (3) of subsection 1 of this section shall be determined by multiplying the dollar amount of the credit by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the person met the requirements prescribed in subdivision (2) or (3) of this subsection, and the denominator of which is three hundred and sixty-five.

4. Notwithstanding any provision of law to the contrary, any taxpayer who claims the exemption and credits allowed in sections 135.276 to 135.283 shall not be eligible to receive the exemption allowed in section 135.220, the credits allowed in sections 135.225 and 135.235 and the refund authorized by section 135.245 or the tax credits allowed in section 135.110. The taxpayer must elect among the options. To perfect the election, the taxpayer shall attach written notification of such election to the taxpayer's initial application for claiming tax credits. The election shall be irreversible once perfected.

5. A taxpayer shall not receive the income exemption described in section 135.276 and the tax credits described in subsection 1 of this section for any year in which the terms and conditions of sections 135.276 to 135.283 are not met. Such incentives shall not exceed the fifteen-year limitation pursuant to subsection 1 of section 135.230 or the seven-year limitation pursuant to subsection 5 of section 135.230.

6. The initial application for claiming tax credits must be made in the taxpayer's tax period immediately following the tax period in which commencement of commercial operations began at the new business facility.

7. Credits may not be carried forward but shall be claimed for the taxable year during which continuation of commercial operations occurs at such retained business facility, and for each of the nine succeeding taxable years.

135.281. APPLICATION FOR INCOME TAX REFUND (HAZELWOOD FORD PLANT) — APPROVAL PROCEDURES. — 1. Any taxpayer operating an approved retained business facility that is located within a state enterprise zone established pursuant to sections 135.200 to 135.256 may make an application to the department of economic development for an income tax refund.

2. Such refunds shall be approved only if the amount of tax credits certified for the taxpayer in the taxable year exceeded the company's total Missouri tax on taxable income in that year by an amount equal to at least one million dollars. In such cases, a portion of tax credits earned shall constitute an overpayment of taxes and may be refunded to the taxpayer in the manner authorized by this section.

3. The department shall evaluate and may approve such applications based upon the importance of the approved retained business facility to the economy of Missouri, the company's investment of at least five hundred million dollars in facilities or equipment, and the number of jobs to be created or retained. Such applications may be approved annually for no longer than five successive years. The maximum amount of refund that may be awarded to the manufacturer or assembler shall not exceed two million dollars per year. Notwithstanding other provisions of law to the contrary, if the taxpayer's tax credits issued under sections 135.276 to 135.283 for a taxable year exceed the taxpayer's taxable income by more than two million dollars, the credits may be carried forward for five years or until used, whichever is earlier, and may be included in refund amounts otherwise authorized by this section.

135.283. PROGRAM APPLICATION — APPROVAL BY DEPARTMENT — EXECUTED AGREEMENT REQUIRED, CONTENTS. — 1. A taxpayer shall apply to the department for approval to participate in the program authorized by sections 135.276 to 135.283. The application shall be in a form prescribed by and contain all information requested by the department to determine eligibility for the program and for the department to make its decision whether to approve the taxpayer for participation in the program.

2. The department may issue an approval contingent upon the successful execution of an agreement between the department and the taxpayer seeking approval of a facility as a retained business facility which shall include, but not be limited to, the following:

(1) A detailed description of the project that is the subject of the agreement;

(2) A requirement that the taxpayer shall annually report to the department the total amount of salaries and wages paid to eligible employees in retained business facility jobs, and any other information the department requires to confirm compliance with the requirements of sections 135.276 to 135.283;

(3) A requirement that the taxpayer shall provide written notification to the director not more than thirty days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer;

(4) A requirement that the taxpayer shall maintain operations at the facility location for at least ten years at a certain employment level;

(5) The requirements otherwise required by sections 135.276 to 135.283; and

(6) A provision for repayment of incentives upon breach of the agreement.

178.892. DEFINITIONS. — As used in sections 178.892 to 178.896, the following terms mean:

(1) "Agreement", the agreement, between an employer and a junior college district, concerning a project. An agreement may be for a period not to exceed ten years when the program services associated with a project are not in excess of five hundred thousand dollars. For a project where associated program costs are greater than five hundred thousand dollars, the agreement may not exceed a period of eight years. No agreement shall be entered into between an employer and a community college district which involves the training of potential employees with the purpose of replacing or supplanting employees engaged in an authorized work stoppage;

(2) "Board of trustees", the board of trustees of a junior college district;

(3) "Certificate", industrial new jobs training certificates issued pursuant to section 178.895;

(4) "Date of commencement of the project", the date of the agreement;

(5) "Employee", the person employed in a new job;

(6) "Employer", the person providing new jobs in conjunction with a project;

(7) **"Essential industry", a business that otherwise meets the definition of industry but instead of creating new jobs maintains existing jobs. To be an essential industry, the business must have maintained at least two thousand jobs each year for a period of four years preceding the year in which application for the program authorized by sections 178.892 to 178.896 is made and must be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants;**

(8) "Existing job", a job in an essential industry that pays wages or salary greater than the average of the county in which the project will be located;

(9) "Industry", a business located within the state of Missouri which enters into an agreement with a community college district and which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail services. "Industry" does not include a business which closes or substantially reduces its operation in one area of the state and relocates substantially the same operation in another area

of the state. This does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced;

[(8)**]** **(10)** "New job", a job in a new or expanding industry not including jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the industry in the state**. For an essential industry, an existing job shall be considered a new job for the purposes of the new job training programs**;

[(9)**]** **(11)** "New jobs credit from withholding", the credit as provided in section 178.894;

[(10)**]** **(12)** "New jobs training program" or "program", the project or projects established by a community college district for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the state;

[(11)**]** **(13)** "Program costs", all necessary and incidental costs of providing program services including payment of the principal of, premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, funding and maintenance of a debt service reserve fund to secure such certificates and wages, salaries and benefits of employees participating in on-the-job training;

[(12)**]** **(14)** "Program services" includes, but is not limited to, the following:

(a) New jobs training;

(b) Adult basic education and job-related instruction;

(c) Vocational and skill-assessment services and testing;

(d) Training facilities, equipment, materials, and supplies;

(e) On-the-job training;

(f) Administrative expenses equal to fifteen percent of the total training costs;

(g) Subcontracted services with state institutions of higher education, private colleges or universities, or other federal, state, or local agencies;

(h) Contracted or professional services; and

(i) Issuance of certificates;

[(13)**]** **(15)** "Project", a training arrangement which is the subject of an agreement entered into between the community college district and an employer to provide program services;

[(14)**]** **(16)** "Total training costs", costs of training, including supplies, wages and benefits of instructors, subcontracted services, on-the-job training, training facilities, equipment, skill assessment and all program services excluding issuance of certificates.

SECTION B. CONTINGENT EXPIRATION DATES. — The provisions of section A of this act shall expire on January 1, 2006, if no essential industry retention projects have been approved by the department of economic development by December 31, 2005. If an essential industry retention project has been approved by the department of economic development by December 31, 2005, the provisions of section A of this act shall expire on January 1, 2020.

SECTION C. EMERGENCY CLAUSE. — Because of the need to retain vital jobs across the state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 18, 2003

SB 621 [SCS SB 621]

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 cities to abate certain types of public nuisances and charge the cost of removal against owner.

AN ACT to amend chapter 82, RSMo, by adding thereto one new section relating to removal of nuisances, with a termination date.

SECTION

A. Enacting clause.
82.291. Derelict vehicle, removal as a nuisance (Hazelwood) — definition, procedure — termination date.
B. Termination date.

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

SECTION A. ENACTING CLAUSE. — Chapter 82, RSMo, is amended by adding thereto one new section, to be known as section 82.291, to read as follows:

82.291. DERELICT VEHICLE, REMOVAL AS A NUISANCE (HAZELWOOD) — DEFINITION, PROCEDURE — TERMINATION DATE. — 1. For purposes of this section, "derelict vehicle" means any motor vehicle or trailer that was originally designed or manufactured to transport persons or property on a public highway, road, or street and that is junked, scrapped, dismantled, disassembled, or in a condition otherwise harmful to the public health, welfare, peace, and safety.

2. The owner of any property located in any home rule city with more than twenty-six thousand two hundred but less than twenty-six thousand three hundred inhabitants, except any property subclassed as agricultural and horticultural property pursuant to section 4(b), article X, of the Constitution of Missouri or any property containing any licensed vehicle service or repair facility, who permits derelict vehicles or substantial parts of derelict vehicles to remain on the property other than inside a fully enclosed permanent structure designed and constructed for vehicle storage shall be liable for the removal of the vehicles or the parts if they are declared to be a public nuisance.

3. To declare derelict vehicles or parts of derelict vehicles to be a public nuisance, the governing body of the city shall give a hearing upon ten days' notice, either personally or by United States mail to the owner or agent, or by posting a notice of the hearing on the property. At the hearing, the governing body may declare the vehicles or the parts to be public nuisances, and may order the nuisance to be removed within five business days. If the nuisance is not removed within the five days, the governing body or the designated city official shall have the nuisance removed and shall certify the costs of the removal to the city clerk or the equivalent official, who shall cause a special tax bill for the removal to be prepared against the property and collected by the collector with other taxes assessed on the property, and to be assessed any interest and penalties for delinquency as other delinquent tax bills are assessed as permitted by law.

SECTION B. TERMINATION DATE. — The provisions of this section shall terminate on August 28, 2004.

Approved July 9, 2003

SB 623 [SB 623]

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

Creates procedures for challenges to fiscal notes in initiatives and referenda.

AN ACT to repeal sections 116.175 and 116.190, RSMo, and to enact in lieu thereof two new sections relating to challenges to fiscal notes and fiscal note summaries.

SECTION

A. Enacting clause.
116.175. Fiscal impact of proposed measure — fiscal note, fiscal note summary, requirements — return of fiscal note for revision, when.
116.190. Ballot title may be challenged, procedure — who are parties defendant — changes may be made by court — appeal to supreme court, when.

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

SECTION A. ENACTING CLAUSE. — Sections 116.175 and 116.190, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 116.175 and 116.190, to read as follows:

116.175. FISCAL IMPACT OF PROPOSED MEASURE — FISCAL NOTE, FISCAL NOTE SUMMARY, REQUIREMENTS — RETURN OF FISCAL NOTE FOR REVISION, WHEN. — 1. Except as provided in section 116.155, upon receipt from the secretary of state's office of any petition sample sheet, joint resolution or bill, the auditor shall assess the fiscal impact of the proposed measure. The state auditor may consult with the state departments, local government entities, the general assembly and others with knowledge pertinent to the cost of the proposal. Proponents or opponents of any proposed measure may submit to the state auditor a proposed statement of fiscal impact estimating the cost of the proposal in a manner consistent with the standards of the governmental accounting standards board and section 23.140, RSMo, provided that all such proposals are received by the state auditor within ten days of his or her receipt of the proposed measure from the secretary of state.

2. Within twenty days of receipt of a petition sample sheet, joint resolution or bill from the secretary of state, the state auditor shall prepare a fiscal note and a fiscal note summary for the proposed measure and forward both to the attorney general.

3. The fiscal note and fiscal note summary shall state the measure's estimated cost or savings, if any, to state or local governmental entities. The fiscal note summary shall contain no more than fifty words, excluding articles, which shall summarize the fiscal note in language neither argumentative nor likely to create prejudice either for or against the proposed measure.

4. The attorney general shall, within ten days of receipt of the fiscal note and the fiscal note summary, approve the legal content and form of the fiscal note summary prepared by the state auditor and shall forward notice of such approval to the state auditor.

5. If the attorney general or the circuit court of Cole County determines that the fiscal note or the fiscal note summary do not satisfy the requirements of this section, the fiscal note and the fiscal note summary shall be returned to the auditor for revision. A fiscal note or fiscal note summary that does not satisfy the requirements of this section also shall not satisfy the requirements of section 116.180.

116.190. BALLOT TITLE MAY BE CHALLENGED, PROCEDURE — WHO ARE PARTIES DEFENDANT — CHANGES MAY BE MADE BY COURT — APPEAL TO SUPREME COURT, WHEN. — 1. Any citizen who wishes to challenge the official ballot title or the fiscal note prepared for a proposed constitutional amendment submitted by the general assembly, by initiative petition,

or by constitutional convention, or for a statutory initiative or referendum measure, may bring an action in the circuit court of Cole County. The action must be brought within ten days after the official ballot title is certified by the secretary of state in accordance with the provisions of this chapter.

2. The secretary of state shall be named as a party defendant in any action challenging the official ballot title prepared by the secretary of state. When the action challenges the fiscal note or the fiscal note summary prepared by the auditor, the state auditor shall also be named as a party defendant. The president pro tem of the senate, the speaker of the house and the sponsor of the measure and the secretary of state shall be the named party defendants in any action challenging the official summary statement, fiscal note or fiscal note summary prepared pursuant to section 116.155.

3. The petition shall state the reason or reasons why the **summary statement portion of the** official ballot title is insufficient or unfair and shall request a different **summary statement portion of the** official ballot title. **Alternatively, the petition shall state the reasons why the fiscal note or the fiscal note summary portion of the official ballot title is insufficient or unfair and shall request a different fiscal note or fiscal note summary portion of the official ballot title.**

4. The action shall be placed at the top of the civil docket. **Insofar as the action challenges the summary statement portion of the official ballot title,** the court shall consider the petition, hear arguments, and in its decision certify the **summary statement portion of the** official ballot title to the secretary of state. **Insofar as the action challenges the fiscal note or the fiscal note summary portion of the official ballot title, the court shall consider the petition, hear arguments, and in its decision, either certify the fiscal note or the fiscal note summary portion of the official ballot title to the secretary of state or remand the fiscal note or the fiscal note summary to the auditor for preparation of a new fiscal note or fiscal note summary pursuant to the procedures set forth in section 116.175.** Any party to the suit may appeal to the supreme court within ten days after a circuit court decision. In making the legal notice to election authorities under section 116.240, **and for the purposes of section 116.180,** the secretary of state shall certify the language which the court certifies to him.

Approved July 11, 2003

SB 651 [SB 651]

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

Makes the Norton/Cynthiana grape the official state grape.

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the establishment of an official state grape.

SECTION
A. Enacting clause.
10.160. State grape.

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

SECTION A. ENACTING CLAUSE. — Chapter 10, RSMo, is amended by adding thereto one new section, to be known as section 10.160, to read as follows:

10.160. STATE GRAPE. — The Norton/Cynthiana grape, designated as Vitis aestivalis, is hereby selected for, and shall be known as, the official state grape of the state of Missouri.

Approved July 11, 2003

SB 666 [HCS SCS SB 666]

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

School districts with multiple attendance centers shall develop policies regarding intra-district transfers.

AN ACT to amend chapter 162, RSMo, by adding thereto one new section relating to intra-school district transfer policies.

SECTION
A. Enacting clause.
162.1190. Multiple attendance centers for same grade level, board to have policy for transfer of students.

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

SECTION A. ENACTING CLAUSE. — Chapter 162, RSMo, is amended by adding thereto one new section, to be known as section 162.1190, to read as follows:

162.1190. MULTIPLE ATTENDANCE CENTERS FOR SAME GRADE LEVEL, BOARD TO HAVE POLICY FOR TRANSFER OF STUDENTS. — The school board of each school district with multiple attendance centers containing the same grade levels shall, no later than July 1, 2004, develop, and make available to the public, a policy regarding the transfer of that school district's students to other schools within the district.

Approved July 7, 2003

SB 675 [CCS HCS 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.

Eliminates certain funds and charges interest against certain other funds.

AN ACT to repeal sections 33.080, 166.300, 339.105, and 374.150, RSMo, and to enact in lieu thereof five new sections relating to certain special funds, with penalty provisions and an effective date for a certain section.

SECTION
A. Enacting clause.
33.080. Receipts deposited when, appropriated when — funds lapse when, exceptions, report — violation, a misdemeanor — transfer of accrued interest from certain funds to general revenue, when.

43.252. Highway patrol traffic records fund created, moneys to be deposited into fund.
166.300. Definitions — school building revolving fund created — lease purchases for projects, plan — eligibility for a lease purchase — ranking of projects — plan waived, when — repayment, interest — failure to make annual payments, state to take possession of buildings, procedure.
339.105. Separate bank escrow accounts required — service charges for account may be made by personal deposit by broker, amount allowed.
374.150. Fees paid to director of revenue, exception — department of insurance dedicated fund established, purpose — lapse into general revenue, when — one-time transfer of a portion of the balance in the fund, when.
B. Effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 33.080, 166.300, 339.105, and 374.150, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 33.080, 43.252, 166.300, 339.105, and 374.150, to read as follows:

33.080. RECEIPTS DEPOSITED WHEN, APPROPRIATED WHEN — FUNDS LAPSE WHEN, EXCEPTIONS, REPORT — VIOLATION, A MISDEMEANOR — TRANSFER OF ACCRUED INTEREST FROM CERTAIN FUNDS TO GENERAL REVENUE, WHEN. — **1.** All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, excluding all funds received and disbursed by the state on behalf of counties and cities, towns and villages shall, by the official authorized to receive same, and at stated intervals of not more than thirty days, be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the general assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the constitution of this state) shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. Any official or any person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; provided, that all such money received by the curators of the University of Missouri except those funds required by law or by instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom, and in the case of other state educational institutions there is excepted herefrom, gifts or trust funds from whatever source; appropriations; gifts or grants from the federal government, private organizations and individuals; funds for or from student activities; farm or housing activities; and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same; and hospital fees. All of the above excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly.

2. Notwithstanding any provision of law to the contrary concerning the funds listed in subdivisions (1) to (23) of this subsection, an amount equal to the sum of all interest that has accrued in the funds listed in subdivisions (1) to (23) of this subsection during the two-year period beginning July 1, 2001, and ending June 30, 2003, shall be transferred and placed to the credit of the general revenue fund of the state by the state treasurer upon the effective date of this act. The funds subject to the provisions of this section are as follows:

(1) Residential mortgage licensing fund created pursuant to section 443.845, RSMo;
(2) Gaming commission bingo fund created pursuant to section 313.008, RSMo;
(3) Missouri air emission reduction fund created pursuant to section 643.350, RSMo;
(4) Mental health housing trust fund created pursuant to section 215.054, RSMo;
(5) Division of credit unions fund created pursuant to section 370.107, RSMo;

(6) Division of savings and loan supervision fund created pursuant to section 369.324, RSMo;

(7) Division of finance fund created pursuant to section 361.170, RSMo;

(8) Natural resources protection fund created pursuant to section 640.220, RSMo, with the exception of the water permit fees subaccount and damages subaccount;

(9) Endowed care cemetery audit fund created pursuant to section 193.265, RSMo;

(10) Metallic minerals waste management fund created pursuant to section 444.370, RSMo;

(11) Natural resources protection air pollution asbestos fee subaccount fund created pursuant to section 643.245, RSMo;

(12) Chemical emergency preparedness fund created pursuant to section 292.607, RSMo;

(13) Legal defense and defender fund created pursuant to section 600.090, RSMo;

(14) Safe drinking water fund created pursuant to section 640.110, RSMo;

(15) Coal mine land reclamation fund created pursuant to section 444.960, RSMo;

(16) Missouri horse racing commission fund created pursuant to section 313.530, RSMo;

(17) Hazardous waste remedial fund created pursuant to section 260.480, RSMo;

(18) Missouri air pollution control fund created pursuant to section 307.366, RSMo;

(19) Property reuse fund created pursuant to section 447.710, RSMo;

(20) State transportation assistance revolving fund created pursuant to section 226.191, RSMo;

(21) Correctional substance abuse earnings fund created pursuant to section 559.635, RSMo;

(22) Mined land reclamation fund created pursuant to section 444.730, RSMo;

(23) Aviation trust fund created pursuant to section 155.090, RSMo.

3. Notwithstanding any provision of law to the contrary concerning the funds listed in subdivisions (1) to (5) of this subsection, the amount specified for each fund listed in subdivisions (1) to (5) of this subsection shall be transferred and placed to the credit of the general revenue fund of the state by the state treasurer before October 1, 2003. The funds subject to the provisions of this subsection and the amount of transfer are as follows:

(1) State fair fees fund created pursuant to section 262.260, RSMo, six thousand dollars;

(2) Petroleum inspection fund created pursuant to section 414.082, RSMo, seventy-seven thousand six hundred and seventeen dollars;

(3) Department of revenue information fund pursuant to section 32.067, RSMo, two hundred and fifty thousand dollars;

(4) Secretary of state's technology trust fund account established pursuant to section 28.160, RSMo, one hundred and two thousand dollars;

(5) Administrative trust fund established pursuant to subsection 11 of section 37.005, RSMo, three million five hundred thousand dollars.

43.252. HIGHWAY PATROL TRAFFIC RECORDS FUND CREATED, MONEYS TO BE DEPOSITED INTO FUND. — All moneys received by the superintendent of the Missouri highway patrol for the copying of reports, photographs, and other related materials of highway patrol investigated motor vehicle accidents and for requests for specialized statistical computer analysis of motor vehicle accident investigation data shall be deposited in the state treasury to the credit of the "Highway Patrol Traffic Records Fund" which is hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into the fund are not totally expended annually by the highway patrol at the end of the biennium, such unexpended monies in such fund shall remain in the fund and shall not revert to the state general revenue fund.

166.300. DEFINITIONS — SCHOOL BUILDING REVOLVING FUND CREATED — LEASE PURCHASES FOR PROJECTS, PLAN — ELIGIBILITY FOR A LEASE PURCHASE — RANKING OF PROJECTS — PLAN WAIVED, WHEN — REPAYMENT, INTEREST — FAILURE TO MAKE ANNUAL PAYMENTS, STATE TO TAKE POSSESSION OF BUILDINGS, PROCEDURE. — 1. As used in this section, the following words and phrases shall mean:

(1) "Capital improvement projects", expenditures for lands or existing buildings, improvements of grounds, construction of buildings, additions to buildings, remodeling of buildings and initial equipment purchases;

(2) "School facility", a structure dedicated primarily to housing teachers and students in the instructional process, but shall not include buildings dedicated primarily to administrative and support functions within the school.

2. There is hereby created a revolving fund to be known as the "School Building Revolving Fund". All forfeitures of assets transferred pursuant to section 166.131, all gifts and bequests to such fund, and such moneys as may be appropriated to the fund shall be deposited into the school building revolving fund; except that no more than four hundred forty million dollars, in the aggregate, shall be transferred to the fund. After a fund balance has been established by prior years' deposits and interest, school districts may submit applications for lease purchases from the revolving fund for specific projects consistent with rules and regulations of the state board of education and subsection 3 of this section, except that no school district may be permitted to enter into a lease purchase from the school building revolving fund without first submitting a long-range capital improvements plan.

3. To be eligible for a lease purchase authorized by this section:

(1) A school district shall meet the minimum criteria for state aid and for increases in state aid established pursuant to section 163.021, RSMo;

(2) A school district shall provide a program which is accredited by the state board of education for grades kindergarten through twelve or for grades kindergarten through eight; and

(3) A school district shall have an equalized, assessed valuation per eligible pupil for the preceding year which is less than the statewide average equalized, assessed valuation per eligible pupil for the preceding year; and

(4) A school district shall have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.

4. Lease purchase applications shall be funded, as funds allow, first for all applications pursuant to subdivision (1) of this subsection and then for applications pursuant to subdivision (2) of this subsection and then for applications pursuant to subdivision (3) of this subsection, and for funding of applications pursuant to a particular subdivision, applications shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest appraised valuation per pupil shall be given priority. Ranking of the applications for offering of lease purchases shall be done in the following order:

(1) Districts with capital replacement costs in excess of insurance proceeds due to facility destruction caused by fire or natural disaster shall be ranked on the basis of percentage of bonding capacity;

(2) Districts with a cumulative percentage growth in fall membership for the third through the fifth preceding years in excess of twelve percent and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri; and

(3) Districts with an equalized assessed valuation per pupil which is less than the statewide average equalized assessed valuation per pupil and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.

5. When building replacement is caused by fire or natural disaster, the requirement for a school district to have a long-range capital improvements plan may be waived by the state board of education.

6. Each school district participating in a lease purchase from the school building revolving fund shall repay such lease purchase in no more than ten annual payments made on or before June thirtieth of each year. The first such payment shall be due and payable on June thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase repayments shall be immediately deposited to the school building revolving fund by the department. Interest charged to the school district shall not exceed three percent.

7. Any school district which fails to obligate the full amount of a loan from the school building revolving fund for the allowable lease purchase must return the unobligated amount plus interest earned to the department no later than June thirtieth of the second full fiscal year after receipt of loan proceeds.

8. If a school district fails to make an annual payment to the school building revolving fund after notice of nonpayment by the department, members of the board of education and the school district's superintendent shall have violated section 162.091, RSMo, and the attorney general of the state of Missouri shall be notified by the state board of education to begin prosecution procedures.

9. All property purchased pursuant to a lease purchase from the school building revolving fund shall remain the property of the state until such time as the lease purchase has been fully repaid pursuant to this section. If a school district does not make an annual payment to the school building revolving fund after notice of nonpayment by the department, the state board of education may, if the delinquency exceeds one hundred eighty days, take possession of the property. As a part of the lease purchase agreement, the school district shall agree to assume all costs, obligations and liabilities for or arising out of establishment, operation and maintenance of the lease purchase property. Other provisions of law to the contrary notwithstanding, neither the state nor any state agency shall have any obligation for such costs, obligations or liabilities unless and until the state board of education takes possession of the property pursuant to this subsection upon a school district's failure to make annual payments as required in the lease purchase agreement.

10. **[**Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the school building revolving fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All yield, interest, income, increment or gain received from time deposit of moneys in the state treasury to the credit of the fund shall be credited by the state treasurer to the fund.**]** **Any unobligated cash balance in the school building revolving fund as of the effective date of this act, shall be transferred to aid the public schools of this state pursuant to section 163.031, RSMo. Any and all deposits made to the school building revolving fund after August 28, 2003, shall be immediately transferred to the state school moneys fund, pursuant to section 166.051.**

339.105. SEPARATE BANK ESCROW ACCOUNTS REQUIRED — SERVICE CHARGES FOR ACCOUNT MAY BE MADE BY PERSONAL DEPOSIT BY BROKER, AMOUNT ALLOWED. — 1. Each broker **who holds funds belonging to another** shall maintain **such funds in** a separate bank **[**checking**]** account in a financial institution**[**, either a bank, savings and loan association or a credit union in this state, or in an adjoining state with written permission of the commission,**]** which shall be designated an escrow or trust account **[**in which all money not his own coming into his possession, including**]**. This requirement includes funds in which he **or she** may have some future interest or claim**[**,**]**. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his **or her** personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed **[**five hundred**] one thousand** dollars in the account from his **or her** personal funds, which sum shall be specifically identified and deposited to cover service charges

related to the account. [The commission may, by written waiver issued for good cause as defined by rule and regulation, relieve a broker from the obligation to maintain a separate escrow or trust account.]

2. [Before issuance of a broker license,] Each broker shall notify the commission of the name of **his or her intent not to maintain an escrow account, or the name of** the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission [but shall not be required in any case where maintenance of an escrow or trust account has been waived pursuant to subsection 1 of this section]. A broker shall notify the commission within [fifteen] **ten business** days of any change of **his or her intent to maintain an escrow account, the** financial institution [or], account numbers**, or change in account status**.

3. In conjunction with each escrow or trust account a broker shall maintain [at his usual place of business,] books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be [open] **provided** to [inspection by] the commission and its duly authorized agents **for inspection** at all times during regular business hours at the broker's usual place of business.

4. **Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595, RSMo. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.**

5. A broker shall not be entitled to any [part of the earnest] money or other money paid to him **or her** in connection with any real estate **sales** transaction as part or all of his **or her** commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

[5.] **6.** When, through investigations or otherwise, the commission has reasonable cause to believe that a licensee has acted, is acting or is about to act in violation of this section, the commission may, through the attorney general or any [of his] assistants designated by [him] **the attorney general**, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.

[6.] **7.** Any such suit shall be commenced in either the county in which the defendant resides or in the county in which the defendant has acted, is acting or is about to act in violation of this section.

[7.] **8.** In such proceeding, the court shall have power to issue such temporary restraining or injunction orders, without bond, which are necessary to protect the public interest. Any action brought under this section shall be in addition to and not in lieu of any other provisions of this chapter. In such action, the commission or the state need not allege or prove that there is no adequate remedy at law or that any individual has suffered any economic injury as a result of the activity sought to be enjoined.

374.150. FEES PAID TO DIRECTOR OF REVENUE, EXCEPTION — DEPARTMENT OF INSURANCE DEDICATED FUND ESTABLISHED, PURPOSE — LAPSE INTO GENERAL REVENUE, WHEN — ONE-TIME TRANSFER OF A PORTION OF THE BALANCE IN THE FUND, WHEN. — 1. All fees due the state under the provisions of the insurance laws of this state shall be paid to the director of revenue and deposited in the state treasury to the credit of the insurance department fund unless otherwise provided for in subsection 2 of this section.

2. There is hereby established in the state treasury a special fund to be known as the "Department of Insurance Dedicated Fund". The fund shall be subject to appropriation of the general assembly and shall be devoted solely to the payment of expenditures incurred by the

department of insurance attributable to duties performed by the department as required by law which are not paid for by another source of funds. Other provisions of law to the contrary notwithstanding, beginning on January 1, 1991, all fees charged under any provision of chapter 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 or 385, RSMo, due the state shall be paid into this fund. The state treasurer shall invest moneys in this fund in the same manner as other state funds and any interest or earnings on such moneys shall be credited to the department of insurance dedicated fund. The provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not lapse, be transferred to or placed to the credit of the general revenue fund unless and then only to the extent to which the unencumbered balance at the close of the biennium year exceeds two times the total amount appropriated, paid, or transferred to the fund during such fiscal year.

3. Notwithstanding the provisions of this section to the contrary, fifty-five percent of the balance in the department of insurance dedicated fund as of the effective date of this act or six million fifteen thousand eight hundred and fifty-five dollars, whichever is greater, shall be subject to an immediate one-time transfer to the state general revenue fund.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of section 339.105 shall become effective on January 1, 2004.

Approved June 26, 2003

SB 686 [CCS HS HCS SCS SB 686]

Articulates conditions upon which school districts may transfer unrestricted funds.

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

AN ACT to repeal sections 115.121, 115.124, 162.261, 162.431, 162.601, 165.011, 165.016, 171.031, 177.086, 324.245, and 393.310, RSMo, and to enact in lieu thereof thirteen new sections relating to education, with an emergency clause for certain sections.

SECTION

A. Enacting clause.
115.121. General election, when held — primary election, when held — general municipal election day defined — special election to incur debt for certain purposes.
115.124. Nonpartisan election in political subdivision or special district, no election required if number of candidates filing is same as number of positions to be filled — exceptions — random drawing filing procedure followed when election is required.
162.261. Seven-director district, board of, terms — vacancies — prohibition on hiring spouse of board member, when.
162.431. Boundary change — procedure — arbitration — compensation of arbitrators — resubmission of changes restricted.
162.601. Election of board members, terms — members appointed due to vacancies, terms — qualifications.
162.1180. Instructional services and programs, educational service agency may be designated, organization, meetings.
165.011. Tuition — accounting of school moneys, funds — uses — transfers to and from incidental fund, when — effect of unlawful transfers — transfers to debt service fund, when — certain one-time transfers permitted in certain counties and districts.
165.016. Amount to be spent on tuition, retirement and compensation — base school year certificated salary percentage — exemption and revision — penalty — exceptions.
171.031. Board to prepare calendar — minimum term — hour limitation.
177.086. Construction of facilities, sealed bids and public advertisement required, when.
324.245. Authority of board — rulemaking — massage therapy fund.

393.310. Certain gas corporations to file set of experimental tariffs with PSC, minimum requirements — expiration date.
1. Meningococcal disease, all on-campus students provided information on — election to receive vaccination — records to be maintained.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 115.121, 115.124, 162.261, 162.431, 162.601, 165.011, 165.016, 171.031, 177.086, 324.245, and 393.310, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 115.121, 115.124, 162.261, 162.431, 162.601, 162.1180, 165.011, 165.016, 171.031, 177.086, 324.245, 393.310, and 1, to read as follows:

115.121. GENERAL ELECTION, WHEN HELD — PRIMARY ELECTION, WHEN HELD — GENERAL MUNICIPAL ELECTION DAY DEFINED — SPECIAL ELECTION TO INCUR DEBT FOR CERTAIN PURPOSES. — 1. The general election day shall be the first Tuesday after the first Monday in November of even-numbered years.

2. The primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.

3. The election day for the election of political subdivision and special district officers shall be the first Tuesday after the first Monday in April each year; and shall be known as the "general municipal election day".

4. In addition to the primary election day provided for in subsection 2 of this section, for the year 2003, the first Tuesday after the first Monday in August 2003 also shall be a primary election day for the purpose of permitting school districts and other political subdivisions of Missouri to incur debt in accordance with the provisions of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the eligible voters of such school district or other political subdivision voting thereon, to provide funds for the acquisition, construction, equipping, improving, restoration, and furnishing of facilities to replace, repair, reconstruct, reequip, restore, and refurnish facilities damaged, destroyed, or lost due to severe weather, including, without limitation, windstorms, hail storms, flooding, tornadic winds, rainstorms and the like which occurred during the months of April or May, 2003.

5. Notwithstanding the provisions of subsection 1 of section 115.125, the officer or agency calling an election on the first Tuesday after the first Monday of August, 2003 shall notify the election authorities responsible for conducting the election not later than 5:00 p.m. on the sixth Tuesday prior to the election. For purposes of any such election, all references in section 115.125 to the tenth Tuesday prior to such election shall be deemed to refer to the sixth Tuesday prior to such election.

115.124. NONPARTISAN ELECTION IN POLITICAL SUBDIVISION OR SPECIAL DISTRICT, NO ELECTION REQUIRED IF NUMBER OF CANDIDATES FILING IS SAME AS NUMBER OF POSITIONS TO BE FILLED — EXCEPTIONS — RANDOM DRAWING FILING PROCEDURE FOLLOWED WHEN ELECTION IS REQUIRED. — 1. Notwithstanding any other law to the contrary, in a nonpartisan election in any political subdivision or special district except for municipal**[**,**]** **and** board of trustees of community college districts **[**and school board**]** elections, if the notice provided for in subsection 5 of section 115.127 has been published in at least one newspaper of general circulation in the district, and if the number of candidates who have filed for a particular office is equal to the number of positions in that office to be filled by the election, no election shall be held for such office, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they had been elected. Notwithstanding any other provision of law to the contrary, if at any election the number of

candidates filing for a particular office exceeds the number of positions to be filled at such election, the election authority shall hold the election as scheduled, even if a sufficient number of candidates withdraw from such contest for that office so that the number of candidates remaining after the filing deadline is equal to the number of positions to be filled.

2. The election authority or political subdivision responsible for the oversight of the filing of candidates in any nonpartisan election in any political subdivision or special district shall clearly designate where candidates shall form a line to effectuate such filings and determine the order of such filings; except that, in the case of candidates who file a declaration of candidacy with the election authority or political subdivision prior to 5:00 p.m. on the first day for filing, the election authority or political subdivision may determine by random drawing the order in which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to this subsection, it shall be conducted so that each candidate may draw a number at random at the time of filing. If such drawing is conducted, the election authority or political subdivision shall record the number drawn with the candidate's declaration of candidacy. If such drawing is conducted, the names of candidates filing on the first day of filing for each office on each ballot shall be listed in ascending order of the numbers so drawn.

162.261. SEVEN-DIRECTOR DISTRICT, BOARD OF, TERMS — VACANCIES — PROHIBITION ON HIRING SPOUSE OF BOARD MEMBER, WHEN. — **1.** The government and control of a seven-director school district, other than an urban district, is vested in a board of education of seven members, who hold their office for three years, except as provided in section 162.241, and until their successors are duly elected and qualified. Any vacancy occurring in the board shall be filled by the remaining members of the board; except that if there are more than two vacancies at any one time, the county commission upon receiving written notice of the vacancies shall fill the vacancies by appointment. The person appointed shall hold office until the next municipal election, when a director shall be elected for the unexpired term.

2. No seven-director, urban, or metropolitan school district board of education shall hire a spouse of any member of such board for a vacant or newly created position unless the position has been advertised pursuant to board policy and the superintendent of schools submits a written recommendation for the employment of the spouse to the board of education. The names of all applicants as well as the name of the applicant hired for the position are to be included in the board minutes.

162.431. BOUNDARY CHANGE — PROCEDURE — ARBITRATION — COMPENSATION OF ARBITRATORS — RESUBMISSION OF CHANGES RESTRICTED. — 1. When it is necessary to change the boundary lines between seven-director school districts, in each district affected, ten percent of the voters by number of those voting for school board members in the last annual school election in each district, may petition the district boards of education in the districts affected, regardless of county lines, for a change in boundaries. The question shall be submitted at the next **general** municipal election.

2. The voters shall decide the question by a majority vote of those who vote upon the question. If assent to the change is given by each of the various districts voting, each voting separately, the boundaries are changed from that date.

3. If one of the districts votes against the change and the other votes for the change, the matter may be appealed to the state board of education, in writing, within fifteen days of the submission of the question by either one of the districts affected, or in the above event by a majority of the signers of the petition requesting a vote on the proposal. At the first meeting of the state board following the appeal, a board of arbitration composed of three members, none of whom shall be a resident of any district affected, shall be appointed. **In determining whether it is necessary to change the boundary line between seven-director districts, the board of arbitration shall base its decision upon the following:**

(1) The presence of school aged children in the affected area;

(2) The presence of actual educational harm to school-aged children, either due to a significant difference in the time involved in transporting students or educational deficiencies in the district which would have its boundary adversely affected; and

(3) The presence of an educational necessity, not of a commercial benefit to landowners or to the district benefitting for the proposed boundary adjustment.

4. Within twenty days after notification of appointment, the board of arbitration shall meet and consider the necessity for the proposed changes and shall decide whether the boundaries shall be changed as requested in the petition or be left unchanged, which decision shall be final. The decision by the board of arbitration shall be rendered not more than thirty days after the matter is referred to the board. The chairman of the board of arbitration shall transmit the decision to the secretary of each district affected who shall enter the same upon the records of his district and the boundaries shall thereafter be in accordance with the decision of the board of arbitration. The members of the board of arbitration shall be allowed a fee of fifty dollars each, to be paid at the time the appeal is made by the district taking the appeal or by the petitioners should they institute the appeal.

5. If the board of arbitration decides that the boundaries shall be left unchanged, no new petition for the same, or substantially the same, boundary change between the same districts shall be filed until after the expiration of two years from the date of the municipal election at which the question was submitted to the voters of the districts.

162.601. ELECTION OF BOARD MEMBERS, TERMS — MEMBERS APPOINTED DUE TO VACANCIES, TERMS — QUALIFICATIONS. — 1. Elected members of the board in office on August 28, 1998, shall hold office for the length of term for which they were elected, and any members appointed pursuant to section 162.611 to fill vacancies left by elected members in office on August 28, 1998, shall serve for the remainder of the term to which the replaced member was elected.

2. No board members shall be elected at the first municipal election in an odd-numbered year next following August 28, 1998.

3. Three board members shall be elected at the second municipal election in an odd-numbered year next following August 28, 1998, to serve four-year terms.

4. Four board members shall be elected at the third municipal election in an odd-numbered year next following August 28, 1998, and two of such members shall be elected to four-year terms and two of such members shall be elected to three-year terms.

5. Beginning with the fourth municipal election in an odd-numbered year next following August 28, 1998, and at each succeeding municipal election in a year during which board member terms expire, there shall be elected members of the board of education, who shall assume the duties of their office at the first regular meeting of the board of education after their election, and who shall hold office for four years, and until their successors are elected and qualified.

6. Members of the board of directors shall be elected to represent seven subdistricts. The subdistricts shall be established by the state board of education to be compact, contiguous and as nearly equal in population as practicable. The subdistricts shall be revised by the state board of education after each decennial census and at any other time the state board determines that the district's demographics have changed sufficiently to warrant redistricting.

7. A member shall reside in and be elected in the subdistrict which the member is elected to represent. Subdistrict 1 shall be comprised of wards 1, 2, 22 and 27. Subdistrict 2 shall be comprised of wards 3, 4, 5 and 21. Subdistrict 3 shall be comprised of wards 18, 19, 20 and 26. Subdistrict 4 shall be comprised of wards 6, 7, 17 and 28. Subdistrict 5 shall be comprised of wards 9, 10, 11 and 12. Subdistrict 6 shall be comprised of wards 13, 14, 16 and 25. Subdistrict 7 shall be comprised of wards 8, 15, 23 and 24.

[8. No one may run for school board who is employed by the school district or who is related to an employee of the school district within the second degree of affinity or consanguinity.]

162.1180. INSTRUCTIONAL SERVICES AND PROGRAMS, EDUCATIONAL SERVICE AGENCY MAY BE DESIGNATED, ORGANIZATION, MEETINGS. — 1. Any public school district or districts may designate an educational service agency, as defined in 20 U.S.C. Section 7801, for the purpose of developing, managing, and providing instructional services or programs to the participating school district or districts.

2. The educational service agency shall be designated by contract which is to be authorized by the board of education of the participating district and shall operate pursuant to standards adopted by the state board of education.

3. An educational service agency shall be organized as a nonprofit corporation as provided pursuant to chapter 355, RSMo, with the method of selection of officers to be governed by section 355.326, RSMo.

4. An educational service agency shall be considered a political subdivision of the state as defined in section 105.450, RSMo, with the governing board and employees subject to the conflict of interest prohibitions provided in chapter 105, RSMo.

5. All meetings of the governing board of the educational service agency shall be subject to the provisions of sections 610.010 to 610.035, RSMo.

6. Nothing in this section shall relieve a participating school district from the responsibility of providing the instructional service or program which it has contracted for through an educational service agency.

165.011. TUITION — ACCOUNTING OF SCHOOL MONEYS, FUNDS — USES — TRANSFERS TO AND FROM INCIDENTAL FUND, WHEN — EFFECT OF UNLAWFUL TRANSFERS — TRANSFERS TO DEBT SERVICE FUND, WHEN — CERTAIN ONE-TIME TRANSFERS PERMITTED IN CERTAIN COUNTIES AND DISTRICTS. — 1. The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, free textbook fund, capital projects fund and debt service fund. The treasurer of the school district shall open an account for each fund specified in this section, and all moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund. All tuition fees, state moneys received under sections 162.975, RSMo, and 163.031, RSMo, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education. The portion of state aid received by the district pursuant to section 163.031, RSMo, based upon the portion of the tax rate in the debt service or capital projects fund, respectively, which is included in the operating levy for school purposes pursuant to section 163.011, RSMo, shall be placed to the credit of the debt service fund or capital projects fund, respectively. Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund. Money apportioned for free textbooks shall be credited to the free textbook fund. All money derived from taxation or received from any other source for the erection of buildings or additions thereto and the remodeling or reconstruction of buildings and the furnishing thereof, for the payment of lease-purchase obligations, for the purchase of real estate, or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities, furnishings and equipment by a school district as authorized under section 177.088, RSMo, shall be credited to the capital projects fund. Money derived from taxation for the retirement of bonds and the payment of interest thereon shall be credited to the debt service fund which shall be maintained as a separate bank account. Receipts from delinquent taxes shall be allocated to the several funds on the same basis as receipts from

current taxes, except that where the previous years' obligations of the district would be affected by such distribution, the delinquent taxes shall be distributed according to the tax levies made for the years in which the obligations were incurred. All refunds received shall be placed to the credit of the fund from which the original expenditures were made. Money donated to the school districts shall be placed to the credit of the fund where it can be expended to meet the purpose for which it was donated and accepted. Money received from any other source whatsoever shall be placed to the credit of the fund or funds designated by the board.

2. **[**(1)**]** The school board may expend from the incidental fund the sum that is necessary for the ordinary repairs of school property and an amount not to exceed the sum of expenditures for classroom instructional capital outlay, as defined by the department of elementary and secondary education by rule, in state-approved area vocational-technical schools and the greater of twenty-five percent of the guaranteed tax base for the preceding year or two and one-fourth percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year for classroom instructional capital outlay, including but not limited to payments authorized pursuant to section 177.088, RSMo. Any and all payments authorized under section 177.088, RSMo, except as otherwise provided in this subsection, for the purchase or lease of sites, buildings, facilities, furnishings and equipment and all other expenditures for capital outlay shall be made from the capital projects fund. If a balance remains in the free textbook fund after books are furnished to pupils as provided in section 170.051, RSMo, it shall be transferred to the teachers' fund. The board may transfer the portion of the balance remaining in the incidental fund to the teachers' fund that is necessary for the total payment of all contracted obligations to teachers. If a balance remains in the debt service fund, after the total outstanding indebtedness for which the fund was levied is paid, the board may transfer the unexpended balance to the capital projects fund. If a balance remains in the bond proceeds after completion of the project for which the bonds were issued, the balance shall be transferred from the incidental or capital projects fund to the debt service fund. After making all placements of interest otherwise provided by law, a school district may transfer from the capital projects fund to the incidental fund the interest earned from undesignated balances in the capital projects fund. All other sections of the law notwithstanding, a school district may transfer from the incidental fund to the capital projects fund an amount equal to the capital expenditures for school safety and security purposes. A school district may borrow from one of the following funds: teachers' fund, incidental fund or capital projects fund, as necessary to meet obligations in another of those funds; provided that the full amount is repaid to the lending fund within the same fiscal year.

[(2) No school district shall make any expenditure for any lease purchase obligation authorized pursuant to section 177.088, RSMo, and incurred on or after January 1, 1997, from the district's capital projects fund unless the district levies, in the current year, a tax rate in the capital projects fund which is sufficient to generate revenues equal to or greater than the amount of such expenditure and collects such revenues and credits such revenues to the capital projects fund. For the purposes of subsection 8 of this section, any expenditure made in violation of this subdivision shall be considered a transfer of funds performed in violation of this section and that amount shall be deducted from the school district's state aid calculated pursuant to section 163.031, RSMo, in the school year following the year such expenditure is made.**]**

3. Tuition shall be paid from either the teachers' or incidental funds.

4. Other provisions of law to the contrary notwithstanding, the school board of a school district that satisfies the criteria specified in subsection 5 of this section may transfer from the incidental fund to the capital projects fund the sum of:

(1) The amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year; plus

(2) Any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools; plus

(3) An amount not to exceed the greater of:

(a) The guaranteed tax base for the preceding year; or

(b) Nine percent of the district's entitlement for the preceding school year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year**, less any amount expended from the incidental fund for classroom instructional capital outlay pursuant to subsection 2 of this section**; provided that transfer amounts authorized pursuant to this subdivision may only be transferred by a resolution of the school board approved by a majority of the board members in office when the resolution is voted upon and identifying the specific capital projects to be funded **directly by the district** by the transferred funds and an estimated expenditure date; and provided that if a district did not maintain compliance with the requirements of section 165.016 the preceding year without recourse to a waiver for that year or a base year adjustment received that year or a fund balance exclusion unless the fund balance exclusion had also been used the second preceding year, the transfer amount pursuant to this subdivision may be transferred only to the extent required to meet current year obligations of the capital projects fund.

5. In order to transfer funds pursuant to subsection 4 of this section, a school district shall:

(1) Meet the minimum criteria for state aid and for increases in state aid for the current year established pursuant to section 163.021, RSMo;

(2) Not incur a total debt, including short-term debt and bonded indebtedness in excess of fifteen percent of the guaranteed tax base for the preceding payment year multiplied by the number of resident and nonresident eligible pupils educated in the district in the preceding year;

(3) Set tax rates pursuant to section 164.011, RSMo;

(4) First apply any voluntary rollbacks or reductions to the total tax rate levied to the teachers' and incidental funds;

(5) In order to be eligible to transfer funds for paying lease purchase obligations:

(a) Incur such obligations, except for obligations for lease purchase for school buses, prior to January 1, 1997;

(b) Limit the term of such obligations to no more than twenty years;

(c) Limit annual installment payments on such obligations to an amount no greater than the amount of the payment for the first full year of the obligation, including all payments of principal and interest, except that the amount of the final payment shall be limited to an amount no greater than two times the amount of such first-year payment;

(d) Limit such payments to leasing nonathletic, classroom, instructional facilities as defined by the state board of education through rule; and

(e) Not offer instruction at a higher grade level than was offered by the district on July 12, 1994.

6. A school district shall be eligible to transfer funds pursuant to subsection 7 of this section if:

(1) Prior to August 28, 1993:

(a) The school district incurred an obligation for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo;

(b) The school district notified the appropriate local election official to place an issue before the voters of the district for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo; or

(c) An issue for funding payments under a lease purchase contract authorized under section 177.088, RSMo, was approved by the voters of the district; or

(2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating levy of a district above the 1993 tax rate resulting from passage of an issue described in paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate for the purposes of subsection 1 of section 164.011, RSMo.

7. Prior to transferring funds pursuant to subsection 4 of this section, a school district may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one of the conditions specified in subsection 6 of this section, but not to exceed its payments authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities, furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year plus any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools. A school district **[**with a levy for school purposes no greater than the minimum levy specified in section 163.021, RSMo, and an obligation in the capital projects fund that satisfies at least one of the conditions specified in subsection 6 of this section**]** **that is in compliance with section 165.016 during the second preceding year or has paid all penalties for the second preceding year**, may transfer from the incidental fund to the capital projects fund the amount necessary to meet the obligation plus the transfers pursuant to subsection 4 of this section.

8. Beginning in the 1995-96 school year, the department of elementary and secondary education shall deduct from a school district's state aid calculated pursuant to section 163.031, RSMo, an amount equal to the amount of any transfer of funds from the incidental fund to the capital projects fund performed during the previous year in violation of this section; except that the state aid shall be deducted in equal amounts over the five school years following the school year of an unlawful transfer provided that:

(1) The district shall provide written notice to the state board of education, no later than June first of the first school year following the school year of the unlawful transfer, stating the district's intention to comply with the provisions of subdivisions (1) to (4) of this subsection and have state aid deducted for that unlawful transfer over a five-year period;

(2) On or before September first of the second school year following the school year of the unlawful transfer, the district shall approve an increase to the district's operating levy for school purposes to the greater of: two dollars and seventy-five cents per one hundred dollars assessed valuation or the levy which produces an increase in total state and local revenues, as determined by the department, in comparison to the first school year following the school year of the unlawful transfer which is equal to or greater than the amount of state aid to be deducted pursuant to this subsection each school year for such unlawful transfer, provided that increases required pursuant to this subdivision for subsequent unlawful transfers shall be made in comparison to the latter tax rate described in this subdivision;

(3) During each school year after the school year in which the operating levy is increased pursuant to subdivision (2) of this subsection and in which state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district shall maintain an operating levy for school purposes which produces total state and local revenues for the district which are no less than the total state and local revenues produced by the levy required pursuant to subdivision (2) of this subsection;

(4) During each school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection except for the 1998-99 school year, the district shall maintain compliance with the requirements of section 165.016 without any recourse to waivers or base-year adjustments and without the option to demonstrate compliance based upon the district's fund balances; and

(5) If, in any school year state aid is deducted pursuant to subdivisions (1) to (4) of this subsection, the district fails to comply with any requirement of subdivisions (1) to (4) of this subsection, the full, remaining amount of state aid to be deducted pursuant to this subsection shall be deducted from the district's state aid payments by the department during such school year.

9. On or before June 30, 1999, a school district may transfer to the capital projects fund from the balances of the teachers' and incidental funds any amount, but only to the extent that the amount transferred is equal to or less than the amount that the teachers' and incidental funds'

unrestricted balances on June 30, 1995, exceeded eight percent of expenditures from the teachers' and incidental funds for the year ending June 30, 1995.

10. (1) Other provisions of law to the contrary notwithstanding, a school district which satisfies all conditions specified in subdivision (2) of this subsection may make the transfer allowed in subdivision (3) of this subsection.

(2) To make the transfer allowed under subdivision (3) of this subsection, a school district shall:

(a) Have a membership count for school year 1997-98 which is at least sixteen percent greater than the district's membership count for the 1991-92 school year; and

(b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994; and

(c) Be in compliance or have paid all penalties required pursuant to section 165.016 for the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school year certificated salary percentage; and

(d) After all transfers, have a remaining balance on June 30, 1998, in the combined teachers' and incidental funds which is no less than ten percent of the combined expenditures from those funds for the 1997-98 school year.

(3) A district which satisfies all of the criteria specified in paragraphs (a) to (d) of subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time combined transfer from the teachers' and incidental funds to the capital projects fund of an amount no greater than the sum of the following amounts:

(a) The product of the district's equalized assessed valuation for 1994 times the difference of the district's equalized operating levy for school purposes for 1994 minus the district's equalized operating levy for school purposes for 1993;

(b) The product of the district's equalized assessed valuation for 1995 times the difference of the district's equalized operating levy for school purposes for 1995 minus the district's equalized operating levy for school purposes for 1993;

(c) The product of the district's equalized assessed valuation for 1996 times the difference of the district's equalized operating levy for school purposes for 1996 minus the district's equalized operating levy for school purposes for 1993;

(d) The product of the district's equalized assessed valuation for 1997 times the difference of the district's equalized operating levy for school purposes for 1997 minus the district's equalized operating levy for school purposes for 1993; provided that the remaining balance in the incidental fund shall be no less than twelve percent of the total expenditures during that fiscal year from the incidental fund.

(4) A district which makes a transfer pursuant to subdivision (3) of this subsection shall be subject to compliance with the requirements of section 165.016 for fiscal years 1999, 2000 and 2001, without the option to request a waiver or an adjustment of the base school year certificated salary percentage.

(5) Other provisions of section 165.016 to the contrary notwithstanding, the transfer of an amount of funds from either the teachers' or incidental fund to the capital projects fund pursuant to subdivision (3) of this subsection shall not be considered an expenditure from the teachers' or incidental fund for the purpose of determining compliance with the provisions of subsections 1 and 2 of section 165.016.

11. In addition to other transfers authorized under subsections 1 to 9 of this section, a district may transfer from the teachers' and incidental funds to the capital projects fund the amount necessary to repay costs of one or more guaranteed energy savings performance contracts to renovate buildings in the school district; provided that the contract is only for energy conservation measures, as defined in section 640.651, RSMo, and provided that the contract specifies that no payment or total of payments shall be required from the school district until at

least an equal total amount of energy and energy-related operating savings and payments from the vendor pursuant to the contract have been realized by the school district.

12. In addition to other transfers authorized pursuant to subsections 1 to 9 of this section, any school district that has undergone at least a twenty-percent increase in assessed valuation from the preceding year because of the construction of a power plant may make a one-time transfer on the basis of each such increase, to the capital projects fund from the balances of the teachers' and incidental funds' unrestricted balances in an amount equal to twice the amount of such transfer otherwise permitted pursuant to this section for the year in which such one-time transfer is made; provided that such transfer shall be made prior to the end of the second fiscal year following the fiscal year in which the increase in assessed valuation is effective. Such one-time transfer may be made without regard to whether the transferred funds are used for current expenditures. No transfer shall be made pursuant to this subsection after June 30, 2003.

13. A school district may transfer unrestricted funds from the capital projects fund to the incidental fund in any year in which that year's June thirtieth combined incidental and teachers funds unrestricted balance compared to the combined incidental and teachers funds expenditures would be less than ten percent without such transfer.

14. School districts that have issued qualified zone academy bonds pursuant to 26 U.S.C. Section 1397E, also known as the Taxpayers Relief Act of 1997, prior to December 31, 2002, and have placed bond proceeds into an interest-bearing account in the capital projects fund without meeting the requirement to set a levy in the debt service fund as required in section 164.161, RSMo, shall be permitted to make transfers to the debt service fund in an amount up to but not exceeding the original amount of bond proceeds invested, under the following conditions:

(1) The district has an unrestricted balance in the capital projects fund equivalent to the original amount of bond proceeds invested that may be transferred to the debt service fund; or

(2) If the district does not have sufficient unrestricted funds in the capital projects fund pursuant to subdivision (1) of this subsection, then additional funds may be transferred from the incidental fund to the debt service fund up to the amount needed to equal the original amount of bond proceeds invested, but such transfer in combination with other district expenditures may not reduce the ending fund balance in the combined teachers' and incidental funds below ten percent balance of the expenditures in those funds;

(3) If the transfers allowed pursuant to subdivisions (1) and (2) of this subsection are not sufficient to equal the original amount of bond proceeds invested, the district shall provide an annual tax in the debt service fund sufficient to generate the amount required within five years from the effective date of this section;

(4) The district shall report the following information as prescribed by the department of elementary and secondary education on the annual secretary of the board report required to be submitted pursuant to section 162.821, RSMo, for the fiscal year ending June 30, 2003:

(a) Documentation of the establishment of the local academy/business partnership and the ten percent business match for qualified zone academy bonds pursuant to 26 U.S.C. Section 1397E;

(b) A detailed schedule of completed and planned expenditures for the projects as specified in the department-approved qualified zone academy bond application, identified by building with certification by the district that a minimum of ninety-five percent of the voter-approved qualified zone academy bonds will be expended within ten years from the date of the sale of bonds; and

(c) The business name, office location, state of incorporation, and names of any representative of the bonding institution and bond counsel, if applicable, who handled the qualified zone academy bond issuance, including all individuals who signed

correspondence to or made presentations to the school district concerning such bonds; and providing the amount of fees or costs of issuance paid to the bonding institution and bond counsel stated as a whole dollar amount and as a percentage of the qualified zone academy bond;

(5) Any transfer made pursuant to subdivision (1) or (2) of this subsection shall be reported on the district's fiscal year 2003 financial records;

(6) If the district fails to provide the information in the manner prescribed by the department on the annual secretary of the board report by December 31, 2003, the amount of unrestricted fund balance transferred into the debt service fund from the capital projects fund or incidental fund shall be returned to the original fund from which the transfer was made and an annual tax established in the debt service fund sufficient to pay the principal and interest of the bonds as they fall due.

15. On or before August 31, 2005, a school district located in a county of the third classification without a township form of government and with more than thirty-seven thousand two hundred but less than thirty-seven thousand three hundred inhabitants and in a county of the third classification without a township form of government and with more than nine thousand four hundred fifty but less than nine thousand five hundred fifty inhabitants and a school district with an assessed valuation of no less than twenty-one million seven hundred fifty thousand dollars and no more than twenty-two million dollars located in a 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 shall be permitted to make a one-time additional transfer from the incidental fund to the capital projects fund in an appropriate amount for the specific purpose of completing a sewer project in order to comply with regulations established by the department of natural resources.

16. On or before August 31, 2005, a school district with an assessed valuation of at least thirty-one million dollars and less than thirty-two million dollars located in a county of the third classification without a township form of government and with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants shall be permitted to make a one-time additional transfer from the incidental fund to the capital projects fund in an appropriate amount for the specific purpose of improving the library media and technology center that serves the district's high school and middle school.

17. In addition to other transfers authorized pursuant to this section, an eligible school district may transfer from the incidental fund to the capital projects fund to make expenditures which decrease the total interest cost of payments for a lease-purchase obligation authorized by section 177.088, RSMo. An eligible school district shall:

(1) Have never made a previous transfer pursuant to this subsection;

(2) Have ending cash reserves during the year of the transfer in incidental and teachers' funds combined equal to or greater than fifteen percent of expenditures;

(3) Decrease the interest cost of all remaining lease-purchase payments by at least the cost of refinancing plus ten percent;

(4) Make payments equal to or greater than the amount of the transfer for a lease-purchase obligation meeting an eligibility requirement of subsections 5 or 6 of this section;

(5) Levy in the incidental and teachers' funds a levy greater than two dollars and seventy-five cents during the year of the transfer and each of the two previous years;

(6) Demonstrate compliance with the requirements of section 165.016 or have paid all outstanding penalties to eligible staff for five consecutive years prior to the year of the transfer; and

(7) Have an average salary for teachers in the district which equals or exceeds for three consecutive years prior to the year of the transfer at least one of the following:

(a) The average salary for teachers statewide; or

(b) The average salary for teachers in its senatorial district.

165.016. AMOUNT TO BE SPENT ON TUITION, RETIREMENT AND COMPENSATION — BASE SCHOOL YEAR CERTIFICATED SALARY PERCENTAGE — EXEMPTION AND REVISION — PENALTY — EXCEPTIONS. — 1. A school district shall expend as a percentage of current operating cost, for tuition, teacher retirement and compensation of certificated staff, a percentage that is for the 1994-95 and 1995-96 school years, no less than three percentage points less than the base school year certificated salary percentage and for the 1996-97 school year, no less than two percentage points less than the base school year certificated salary percentage. A school district may exclude transportation and school safety and security expenditures from the current operating cost calculation of the base year and the year or years for which the compliance percentage is calculated. The base school year certificated salary percentage shall be the two-year average percentage of the 1991-92 and 1992-93 school years except as otherwise established by the state board under subsection 4 of this section; except that, for any school district experiencing, over a period of three consecutive years, an average yearly increase in average daily attendance of at least three percent, the base school year certificated salary percentage may be the two-year average percentage of the last two years of such period of three consecutive years, at the discretion of the school district.

2. Beginning with the 1997-98 school year, a school district shall:

(1) Expend, as a percentage of current operating cost, as determined in subsection 1 of this section, for tuition, teacher retirement and compensation of certificated staff, a percentage that is no less than two percentage points less than the base school year certificated salary percentage; or

(2) For any year in which no payment of a penalty is required for the district under subsection 6 of this section, have an unrestricted fund balance in the combined incidental and teachers' funds on June thirtieth which is equal to or less than ten percent of the combined expenditures for the year from those funds.

3. Beginning with the 1999-2000 school year:

(1) As used in this subsection, "fiscal instructional ratio of efficiency" or "FIRE" means the quotient of the sum of the district's current operating costs, as defined in section 163.011, RSMo, for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, and excluding student activities, divided by the sum of the district's current operating cost for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation and school safety and security costs;

(2) A school district shall show compliance with this section in school year 1998-99 and thereafter by the method described in subsections 1 and 2 of this section, or by maintaining or increasing its fiscal instructional ratio of efficiency compared to its FIRE for the 1997-98 base year.

4. (1) The state board of education may exempt a school district from the requirements of this section upon receiving a request for an exemption by a school district. The request shall show the reason or reasons for the noncompliance, and the exemption shall apply for only one school year. Requests for exemptions under this subdivision may be resubmitted in succeeding years;

(2) A school district may request of the state board a one-time, permanent revision of the base school year certificated salary percentage. The request shall show the reason or reasons for the revision.

5. Any school district requesting an exemption or revision under subsection 4 of this section must notify the certified staff of the district in writing of the district's intent. Prior to granting an exemption or revision, the state board shall consider comments from certified staff of the district. The state board decision shall be final.

6. Any school district which is determined by the department to be in violation of the requirements of subsection 1 or 2 of this section, or both, shall compensate the building-level

administrative staff and nonadministrative certificated staff during the year following the notice of violation by an additional amount which is equal to one hundred ten percent of the amount necessary to bring the district into compliance with this section for the year of violation. In any year in which a penalty is paid, the district shall pay the penalty specified in this subsection in addition to the amount required under this section for the current school year.

7. Any additional transfers from the teachers' or incidental fund to the capital projects fund beyond the transfers authorized by state law and state board policy in effect on January 1, 1996, shall be considered expenditures from the teachers' or incidental fund for the purpose of determining compliance with the provisions of subsections 1, 2 and 3 of this section.

8. The provisions of this section shall not apply to any district receiving state aid pursuant to subsection 6 of section 163.031, RSMo, based on its 1992-93 payment amount per eligible pupil, which is less than fifty percent of the statewide average payment amount per eligible pupil paid during the previous year.

9. The provisions of subsections 1 to 8 of this section shall not apply to any district that has unrestricted fund balances in the combined incidental and teacher funds on June thirtieth of the preceding year which are equal to or less than seventeen percent of the combined expenditure for the preceding year from these funds in any year in which state funds distributed pursuant to section 163.031, RSMo, lines 1 to 10 plus line 14 are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

10. The provisions of subsections 1 to 8 of this section shall not apply to any district which meets the following criteria:

(1) With ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment;

(2) With unrestricted fund balances in the combined incidental and teacher funds on June thirtieth of the preceding year which are equal to or less than one half of the local property tax revenue for the previous year; and

(3) In any year in which state funds distributed pursuant to section 163.031, RSMo, lines 1 to 10 plus line 14 are no more than ninety-six percent of such state funds distributed in fiscal year 2002.

171.031. BOARD TO PREPARE CALENDAR — MINIMUM TERM — HOUR LIMITATION. — 1. Each school board shall prepare annually a calendar for the school term, specifying the opening date and providing a minimum term of at least one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance. **[**The opening date shall not be earlier than the first day of September, except:

(1) If the first day of September falls on Labor Day or a Saturday or Sunday, the school board in any school district may move the starting day for that term to a subsequent school day;

(2) In school districts in which schools are in session for twelve months of each calendar year; and

(3) In school districts in which the school board determines students are needed for agricultural production purposes.**]**

2. No school day shall be longer than seven hours except for vocational schools which may adopt an eight-hour day in a metropolitan school district and a school district in a first class county adjacent to a city not within a county.

177.086. CONSTRUCTION OF FACILITIES, SEALED BIDS AND PUBLIC ADVERTISEMENT REQUIRED, WHEN. — 1. Any school district authorizing the construction of facilities which may exceed an expenditure of **[**twelve thousand five hundred**]** **fifteen thousand** dollars shall publicly advertise, **once a week** for two **[**successive**]** **consecutive** weeks, in a newspaper of general **[**publication**]** **circulation, qualified pursuant to chapter 493, RSMo**, located within the **[**county**]** **city** in which **[**said**]** **the** school district is located, or if there be no such newspaper, in

a **qualified** newspaper of general **[**publication**]** **circulation in the county, or if there be no such newspaper, in a qualified newspaper of general circulation** in an adjoining county**, and may advertise in business, trade, or minority newspapers,** for bids on said construction.

2. No bids shall be entertained by the school district which are not made in accordance with the specifications furnished by **[**them**]** **the district** and all contracts shall be let to the lowest responsible bidder complying with the terms of the letting, provided that the **[**said school**]** district shall have the right to reject any and all bids.

3. All bids must be submitted sealed and in writing, to be opened publicly at time and place of the district's choosing.

324.245. AUTHORITY OF BOARD — RULEMAKING — MASSAGE THERAPY FUND. — 1. The board is authorized to promulgate rules and regulations regarding:

(1) The content of license applications and the procedures for filing an application for an initial or renewal license in this state;

(2) The content, conduct and administration of the licensing examination required by section 324.265;

(3) Educational requirements for licensure**, including, but not limited to, provisions that allow clock hours of supervised instruction at a vocational technical school**;

(4) The standards and methods to be used in assessing competency as a massage therapist;

(5) All applicable fees, set at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275; and

(6) Establishment of procedures for granting reciprocity with other states, including states which do not have massage therapy licensing laws or states whose licensing laws are not substantially the same as those of this state.

2. All funds received by the board pursuant to the provisions of sections 324.240 to 324.275 shall be collected by the director who shall transmit the funds to the department of revenue for deposit in the state treasury to the credit of the "Massage Therapy Fund" which is hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the fund for the preceding fiscal year.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 324.240 to 324.275, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

393.310. CERTAIN GAS CORPORATIONS TO FILE SET OF EXPERIMENTAL TARIFFS WITH PSC, MINIMUM REQUIREMENTS — EXPIRATION DATE. — 1. This section shall only apply to gas corporations as defined in section 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.

2. As used in this section, the following terms mean:

(1) "Aggregate", the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;

(2) "Commission", the Missouri public service commission; and

(3) "Eligible school entity" shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, RSMo, and shall also include, one year after July 11, 2002, and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.

3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.

4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

(1) Provide for the aggregate purchasing of natural gas supplies and pipeline transportation services on behalf of eligible school entities in accordance with aggregate purchasing contracts negotiated by and through a not-for-profit school association;

(2) Provide for the resale of such natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing of such gas supplies and transportation, plus all applicable distribution costs, plus an aggregation and balancing fee to be determined by the commission, not to exceed four-tenths of one cent per therm delivered during the first year; and

(3) Not require telemetry or special metering, except for individual school meters over one hundred thousand therms annually.

5. The commission may suspend the tariff as required pursuant to subsection 3 of this section for a period ending no later than November 1, 2002, and shall approve such tariffs upon finding that implementation of the aggregation program set forth in such tariffs will not have any negative financial impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue at least equal to all incremental costs caused by the experimental aggregation program. **Except as may be mutually agreed by the gas corporation and eligible school entities and approved by the commission, such tariffs shall not require eligible school entities to be responsible for pipeline capacity charges for longer than is required by the gas corporation's tariff for large industrial or commercial basic transportation customers.**

6. The commission **shall treat the gas corporation's pipeline capacity costs for associated eligible school entities in the same manner as for large industrial or commercial basic transportation customers, which shall not be considered a negative financial impact on the gas corporation, its other customers, or local taxing authorities, and the commission** may adopt by order such other procedures not inconsistent with this section which the commission determines are reasonable or necessary to administer the experimental program.

7. This section shall terminate June 30, 2005.

SECTION 1. MENINGOCOCCAL DISEASE, ALL ON-CAMPUS STUDENTS PROVIDED INFORMATION ON — ELECTION TO RECEIVE VACCINATION — RECORDS TO BE MAINTAINED. — 1. Beginning with the 2004-2005 school year and for each school year thereafter, every public institution of higher education in this state shall require all students who reside in on-campus housing to sign a written waiver stating that the institution of higher education has provided the student, or if the student is a minor, the student's parents or guardian, with detailed written information on the risks associated with meningococcal disease and the availability and effectiveness of the meningococcal vaccine.

2. Any student who elects to receive the meningococcal vaccine shall not be required to sign a waiver referenced in subsection 1 of this section and shall present a record of said vaccination to the institution of higher education.

3. Each public university or college in this state shall maintain records on the meningococcal vaccination status of every student residing in on-campus housing at the university or college, including any written waivers executed pursuant to subsection 1 of this section.

4. Nothing in this section shall be construed as requiring any institution of higher education to provide or pay for vaccinations against meningococcal disease.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to adequately fund the public schools of this state, the repeal and reenactment of sections 115.121, 165.011, and 165.016 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and the repeal and reenactment of sections 115.121, 165.011, and 165.016 is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 115.121, 165.011, and 165.016 of this act shall be in full force and effect upon its passage and approval.

Approved June 23, 2003

SB 697 [SB 697]

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 George Washington Carver Memorial Highway on a portion of Interstate 44 in Jasper and Newton Counties.

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the George Washington Carver Memorial Highway.

SECTION

A. Enacting clause.
227.340. George Washington Carver Memorial Highway, portion of interstate highway 44 in Jasper and Newton counties designated as.

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 227.340, to read as follows:

227.340. GEORGE WASHINGTON CARVER MEMORIAL HIGHWAY, PORTION OF INTERSTATE HIGHWAY 44 IN JASPER AND NEWTON COUNTIES DESIGNATED AS. — The portion of interstate highway 44 contained in a county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants and a county of the second classification with more than fifty-two thousand six hundred but less than fifty-two thousand seven hundred inhabitants shall be designated as the "George Washington Carver Memorial Highway".

Approved July 11, 2003

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