HB 33 [HB 33]

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

Designates the North American Bullfrog as the official state amphibian

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to state emblems.

SECTION
A. Enacting clause.
10.170. State amphibian — North American bullfrog.

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 10.170, to read as follows:

10.170. STATE AMPHIBIAN — NORTH AMERICAN BULLFROG. — The North American Bullfrog, scientifically designated as Rana catesbeiana, is selected for and shall be known as the official amphibian of the state of Missouri.

Approved June 9, 2005

HB 40 [HB 40]

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

Allows counties of the second classification to admit industrial development corporation board members from anywhere in the county

AN ACT to repeal section 349.045, RSMo, and to enact in lieu thereof one new section relating to industrial development corporations, with an emergency clause.

SECTION
A. Enacting clause.
349.045. Board of directors, qualifications, appointment, terms — requirements for Lewis County.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 349.045, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 349.045, to read as follows:

349.045. BOARD OF DIRECTORS, QUALIFICATIONS, APPOINTMENT, TERMS — REQUIREMENTS FOR LEWIS COUNTY. — The corporation shall have a board of directors in which all the powers of the corporation shall be vested and which shall consist of any number of directors, not less than five, all of whom shall be duly qualified electors of and taxpayers in

the county or municipality; except that, for any industrial development corporation formed by any municipality located wholly within any county of the **second,** third**,** or fourth classification, directors may be qualified taxpayers in and registered voters of such county. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in and about the performance of their duties hereunder. The directors shall be resident taxpayers for at least one year immediately prior to their appointment. No director shall be an officer or employee of the county or municipality. All directors shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality, and in all counties, other than a city not within a county and counties with a charter form of government, the appointments shall be made by the county commission and they shall be so appointed that they shall hold office for staggered terms. At the time of the appointment of the first board of directors the governing body of the municipality or county shall divide the directors into three groups containing as nearly equal whole numbers as may be possible. The first term of the directors included in the first group shall be two years, the first term of the directors included in the second group shall be four years, the first term of the directors in the third group shall be six years; provided, that if at the expiration of any term of office of any director a successor thereto shall not have been appointed, then the director whose term of office shall have expired shall continue to hold office until a successor shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality. The successors shall be resident taxpayers for at least one year immediately prior to their appointment.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to allow counties of the second classification to admit industrial development corporation board members from anywhere in the county, 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 13, 2005

HB 43 [HB 43]

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 U. S. Highway 160 as the "Rick Harmon Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial highway.

SECTION
A. Enacting clause.
227.304. Rick Harmon Memorial Highway designated in Taney County.

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 227.304, to read as follows:

227.304. RICK HARMON MEMORIAL HIGHWAY DESIGNATED IN TANEY COUNTY. — The portion of U.S. Highway 160 in Taney County from state route 76, known as the Kissee Mills Junction, to state route 125, known as the Rueter Junction, shall be designated the "Rick Harmon Memorial Highway". Costs for such designation shall be paid by private donations.

Approved June 21, 2005

HB 47 [SCS HCS HB 47]

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

Requires consolidated public library district trustees to reside within the district as well as in the county they represent on the board

AN ACT to repeal section 182.640, RSMo, and to enact in lieu thereof one new section relating to consolidated public library districts.

SECTION

A. Enacting clause.

182.640. Board of trustees — how appointed, grounds for removal, vacancies how filled — librarian to be appointed.

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

SECTION A. ENACTING CLAUSE. — Section 182.640, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 182.640, to read as follows:

182.640. BOARD OF TRUSTEES — HOW APPOINTED, GROUNDS FOR REMOVAL, VACANCIES HOW FILLED — LIBRARIAN TO BE APPOINTED. — 1. A consolidated public library district created under the provisions of sections 182.610 to 182.670 shall be governed by a board of trustees which shall consist of not less than eight trustees to be appointed by the county commission or county executive officers of the counties participating in the consolidated public library district. The county commission or county executive officers of each participating county shall appoint four trustees who are residents of that county **and who reside in the district**, as representatives of its county. No appointed trustee shall be an elective official.

2. The trustees of the existing boards of a county public district shall remain as the representatives of their respective county and shall serve the remainder of their respective term as the governing board of a consolidated public library district. Upon expiration of their term the county commission or county executive officer shall appoint a resident of the respective county **and district** for a four-year term beginning the first day of July or until a successor shall be appointed. **Trustees in office as of August 28, 2005, who reside outside the district shall be deemed to have vacated their trusteeships and successors shall be appointed under subsection 4 of this section.**

3. Whenever any member of the board of trustees shall, without good cause, fail to attend six consecutive board meetings of the consolidated public library district or whenever any member of the board of trustees is deemed by the majority of the board of trustees to be guilty of conduct prejudicial to the good order and effective operation of the consolidated public library district, or whenever any member is deemed to be guilty of neglect of duty, then such member may be removed by resolution of the board of trustees duly acted upon, after specification of charge and hearing.

4. Vacancies in the board occasioned by removals, resignations, or otherwise shall be reported to the county commission or county executive officers and shall be filled in like manner as original appointments; except that, if the vacancy occurs during an unexpired term, the appointment shall be for only the unexpired portion of that term.

5. No person shall be employed by the board of library trustees or by the librarian who is related within the third degree by blood or by marriage to any trustee of the board.

6. Except as in sections 182.610 to 182.670 otherwise expressly provided, no trustee of a consolidated public library district shall receive any fee, salary, gratuity or other compensation or remuneration for acting as such; except that, the board of trustees may reimburse its members for actual and necessary expenses incurred in the performance of their duties.

7. The board of trustees shall have a president, secretary and a treasurer and such other officers as the board may select. All officers of the board shall be selected by the board. All officers of the board of trustees shall serve at the pleasure of the board, and shall not receive any salary, gratuity or other compensation or reimbursement for acting as such, except the treasurer, who may also serve as secretary.

8. The board shall provide for regularly scheduled meetings of the board to be held monthly; except that, the board shall not be required to meet more than ten times in any calendar year. The board shall make and adopt bylaws, rules and regulations governing the proceedings of the board, including bylaws prescribing the duties of each officer of the board of trustees. No bylaws, rules or regulations shall be contrary to, or inconsistent with, any provision of law.

9. A majority of the full board of trustees shall constitute a quorum for the transaction of business. The act of the majority of the trustees present at a meeting at which a quorum is present shall be the act of the board of trustees, except as hereinafter provided. The affirmative vote of a majority of the full board of trustees shall be required to enter into any contract, employ or dismiss the chief administrative officer of the district, effect a merger or consolidation or approve a budget.

10. The board of trustees of a consolidated public library district shall adopt policies for the government of the consolidated public library district that will carry out the spirit and intent of sections 182.610 to 182.670, and the board shall employ a duly qualified graduate librarian as the chief executive and administrative officer of the consolidated public library district charged with the duty of carrying out the policies adopted by the board. The librarian shall serve at the pleasure of the board. The librarian shall have the authority to employ professional library assistants and other employees to fill the positions that are created by the board. The assistants and employees may be dismissed by the librarian.

Approved July 12, 2005

HB 56 [HCS HB 56]

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

Exempts certain programs established by pharmaceutical companies from providing assistance to patients from certain prohibited financial incentive practices

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to multiple sclerosis.

SECTION

A. Enacting clause.
376.823. Prohibition on kickbacks not applicable for rebates for certain chronic illnesses.

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

SECTION A. ENACTING CLAUSE. — Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.823, to read as follows:

376.823. PROHIBITION ON KICKBACKS NOT APPLICABLE FOR REBATES FOR CERTAIN CHRONIC ILLNESSES. — Section 191.905, RSMo, shall not apply to programs established by pharmaceutical companies for the purposes of providing a partial rebate of private health insurance copayments and coinsurance to patients with multiple sclerosis or other chronic, potentially disabling, or life-threatening conditions who have been prescribed disease-managing medicines for which there are no generic equivalents.

Approved July 14, 2005

HB 58 [CCS SS SCS HCS HB 58]

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 laws regarding political subdivisions

AN ACT to repeal sections 44.090, 49.093, 49.272, 50.343, 50.530, 50.760, 50.770, 50.780, 50.1030, 52.317, 54.010, 54.280, 54.320, 54.330, 55.160, 59.005, 64.215, 64.940, 65.030, 65.110, 65.150, 65.160, 65.180, 65.190, 65.200, 65.220, 65.230, 65.300, 65.460, 65.490, 65.600, 65.610, 67.459, 67.469, 67.1003, 67.1062, 67.1067, 67.1069, 67.1070, 67.1350, 67.1401, 67.1451, 67.1754, 67.1775, 67.1850, 71.012, 71.794, 82.291, 82.1025, 94.270, 94.700, 100.050, 100.059, 105.711, 115.013, 115.019, 135.010, 136.010, 136.160, 137.073, 137.078, 137.100, 137.106, 137.115, 137.465, 137.585, 137.720, 138.100, 139.040, 139.055, 139.120, 139.350, 139.400, 139.420, 139.430, 139.440, 139.450, 139.460, 140.150, 165.071, 190.010, 190.015, 190.090, 190.292, 190.335, 205.010, 210.860, 210.861, 217.905, 231.230, 231.444, 233.295, 242.560, 245.205, 246.005, 247.060, 247.180, 249.1150, 249.1152, 249.1154, 250.140, 263.245, 278.240, 301.025, 313.800, 313.820, 320.121, 321.120, 321.190, 321.220, 321.322, 321.603, 349.045, 393.015, 447.620, 447.622, 447.625, 447.640, 473.770, 473.771, 478.570, 478.600, 488.2220, 559.607, 537.600, 640.635, 644.076, 701.038, and 701.053, RSMo, and section 137.130 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, and section 137.130 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, are repealed and to enact in lieu thereof one hundred sixty-five new sections relating to political subdivisions, with penalty provisions.

SECTION

A. Enacting clause.
44.045. Health care professionals may be deployed during a state of emergency — release of certain confidential information permitted, when.
44.090. Mutual-aid agreements — participation in statewide mutual aid system — reimbursement for services provided, benefits.
49.093. County department officers to inspect and inventory personal property used by department — additional inventory inspected by county clerk — report to be filed and signed by clerk (counties of the third and fourth classification).
49.272. County counselor may impose fine for certain violations of rules, regulations or ordinances, amount (Boone, Cass, Jasper, Jefferson, and Greene Counties).

50.343. Compensation of certain officers, how computed (St. Charles, Clay, Jefferson, Greene and certain other counties).
50.530. Definitions.
50.760. Advertisement for bids, procedure for — purchase at public auctions — purchase order required (second class and certain first class counties).
50.770. Supplies defined (second class and certain first class counties).
50.780. Commissions may permit officers to purchase supplies direct — liability therefor — preference in bids — waiver, when (second class and certain first class counties).
50.783. Waiver of competitive bid requirements, when — rescission of waiver, when — single feasible source purchases.
50.784. Procurement authority delegation permitted, when — accepting department's duties.
50.1030. Board of directors, election, appointment by the governor, term, powers, duties — chairman, secretary, meetings — advisors — audits — compensation, costs — record — annual review.
50.1031. Benefit adjustments, required assets-to-liability ratio — frequency of adjustments — effective date of adjustments.
52.317. Moneys provided for budget purposes, requirements — moneys remaining in fund at end of calendar year, requirements — one-time expenditures, common fund permitted.
54.010. Office created — election.
54.280. County collector-treasurer, duties — fees authorized.
54.320. Collector-treasurer, compensation — fees — deputies and assistants, compensation — training program, attendance required, expenses, compensation (township counties).
54.330. Bonds of collector-treasurers — bond requirements for deputies and assistants.
55.160. Duties (second class and certain first class counties).
59.005. Definitions.
59.044. Certain recorders to be paid statutory compensation.
64.215. County planning board, members (exception for Cass County), terms, removal, expenses, chairman (noncharter first classification counties).
64.940. Powers of the authority.
65.030. Proposition submitted — election held, when — form of ballot.
65.110. Officers to be chosen.
65.150. Eligibility for office.
65.160. Oath — shall assume office, when.
65.180. Refusal to serve — forfeiture.
65.183. Removal of township officers, procedure.
65.190. Failure to take oath — forfeiture.
65.200. Vacancies in office — how filled.
65.220. Resignations, how accepted.
65.230. Compensation of officers.
65.300. Board of directors — meetings.
65.460. Township trustee, collector.
65.490. Township funds, how paid out — school district funds, duties of trustees.
65.600. County collector and assessor — tenure upon adoption of township organization.
65.610. Abolition of township organization — procedure.
67.055. Moneys collected for additional costs and expenses, review by county budget officer.
67.459. Apportionment of improvement costs — governing body to establish classifications.
67.469. Assessment treated as tax lien, payable upon foreclosure.
67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.
67.1062. Definitions.
67.1067. Agencies applying for funds, information required.
67.1069. Requirements for agencies to be eligible for funds.
67.1070. Eligible agencies.
67.1159. Lien for unpaid taxes — release of lien, when — fee for recording of lien — notification of sale of property, when — civil action authorized, when.
67.1305. Retail sales tax may be imposed in lieu of certain local economic development sales tax — ballot language — collection and distribution of moneys — trust fund and board to be established.
67.1350. Annexation by certain cities to promote economic development (Warrensburg).
67.1401. Definitions.
67.1451. Board of directors, election, qualifications, appointment, terms, removal, actions.
67.1754. Sales tax, how allocated.
67.1775. Authorizes local sales tax in all counties and St. Louis City to provide services for children — establishes fund.
67.1809. Licensure, supervision, and regulation of persons who engage in the business of transporting passengers in commerce.
67.1850. Geographical information system may be created, purpose, open records policy, fees for information, licensing, liability.

67.2555. Competitive bids required, when (Jackson County).
71.012. Annexation procedure, hearing, exceptions (Perry County, Randolph County) — contiguous and compact defined — common interest community, cooperative and planned community, defined — objection, procedure.
71.794. Establishing or altering size of district, procedure.
79.600. Annexation of trash and recyclable material facilities, procedure (City of Eureka)
82.291. Derelict vehicle, removal as a nuisance (Hazelwood) — definition, procedure — termination date.
82.301. Definitions.
82.302. Applicability to Kansas City.
82.303. Abatement of a nuisance, neighborhood organization may seek injunctive relief, procedure.
82.305. Statutes not to abrogate any equitable right or remedy — standing not granted, when.
82.1025. Nuisance action for deteriorated property (Jefferson, Platte, Franklin, and St. Louis counties, Springfield, St. Louis, Kansas City).
94.270. Power to license, tax and regulate certain businesses and occupations — prohibition on local license fees in excess of certain amounts in certain cities (Edmundson, Woodson Terrace) — license fee on hotels or motels (St Peters) — increase or decrease of tax, when.
94.700. Definitions.
94.837. Transient guest tax (Canton, LaGrange, Edina).
94.838. Transient guest tax and tax on retail sales of food (Lamar Heights).
99.1080. Citation of law.
99.1082. Definitions.
99.1086. Redevelopment plan, contents — adoption of plan, when.
99.1088. Public hearing required, notice requirements — changes to a plan without further hearing, when — boundaries of redevelopment area not to be changed after adoption.
99.1090. Application to department for approval of project costs, approval procedure — rulemaking authority.
99.1092. Fund established, allocation of moneys — rulemaking authority.
100.050. Approval of plan by governing body of municipality — information required — additional information required, when — payments in lieu of taxes, applied how.
100.059. Notice of proposed project for industrial development, when, contents — limitation on indebtedness, inclusions — applicability, limitation.
105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.
115.013. Definitions.
115.019. Voters may petition to establish a board of election commissioners, procedure — form of petition.
115.348. Conviction or plea under federal laws, disqualification for elective public office.
135.010. Definitions.
136.010. Division to collect all state revenues, exceptions, report.
136.160. Accounts and vouchers to be exhibited, when.
137.071. Business personal property, excludes from total assessed valuation a portion of assessed valuation for property subject to appeal.
137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
137.078. Depreciation schedules for broadcasting equipment, definitions — true value in money, how determined — tables.
137.100. Certain property exempt from taxes.
137.106. Homestead preservation — definitions — homestead exemption credit received, when, application process — assessor's duties — department of revenue duties — exemption limit set, when, how applied — rulemaking authority — sunset provision.
137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
137.122. Depreciable tangible personal property — definitions — standardized schedule to be used — valuation table — exceptions.
137.130. Assessor to make physical inspection, when — assessment.
137.130. Assessor to make physical inspection, when — assessment.
137.465. County clerk to submit lists of property — abstracts of all real property.
137.585. Township special road and bridge tax, how levied, collected and disbursed.
137.720. Percentage of ad valorem property tax collections to be deducted for deposit in county assessment fund — additional deduction (St. Louis City and all counties).
138.100. Rules — hearings (counties of the first classification).
139.040. Acceptable medium of exchange in payment of taxes.
139.055. Tax paid by credit card or electronic transfer — fee.
139.120. Seizure and sale of personal property — duty of sheriff.
139.350. Collection of taxes — procedure.
139.400. Abatement on tax list — procedure.
139.420. Collector-treasurer — final settlement of accounts.
139.430. Collector-treasurer — monthly statements — disposition of collected moneys — commission.

139.440. Collector-treasurer — default, penalties — certified copy of statement.
139.450. Collector-treasurer — statements.
139.460. Collector-treasurer — school taxes, collection — apportioned and kept — school districts.
140.150. Lands, lots, mineral rights, and royalty interests subject to sale, when.
165.071. County collector-treasurer to pay over school district moneys monthly (seven-director districts).
190.010. Territory of district may be noncontiguous — ambulance districts authorized except in counties of 400,000 or more population — district, how named.
190.015. Petition to form, contents — ambulance district boundaries (St. Louis County).
190.090. Consolidation of ambulance districts, procedure for — form of ballot — transition provisions for consolidation.
190.292. Emergency services, sales tax levy authorized — ballot language — rate of tax — termination of tax — board to administer funds established, members (Warren County).
190.335. Central dispatch for emergency services, alternative funding by county sales tax, procedure, ballot form, rate of tax — collection, limitations — adoption of alternate tax, telephone tax to expire, when — board appointment and election, qualification, terms — continuation of board in Greene County.
198.345. Apartments for seniors, districts may establish (Marion and Ralls counties).
205.010. Petition of voters — maximum tax rate — submission of question.
210.860. Tax levy, amount, purposes — ballot — deposit of funds in special community children's services fund.
210.861. Board of directors, term, expenses, organization — powers — funds, expenditure, purpose, restrictions.
215.246. Grants or loans not awarded without implementation of certain oversight procedures (Kansas City).
217.905. Powers and duties of commission — authority to hire employees and set salaries — state not liable for deficiencies or debts of commission — Missouri state penitentiary commission deemed a state commission.
231.230. Bridges costing more than forty-five hundred dollars, how built.
231.444. County road tax — Carter, Scotland, Knox, Schuyler and Worth counties — special road rock fund.
233.295. Dissolution of road district — petition — notice — disincorporation of district (Christian, Jasper and Barry counties).
242.560. Current and delinquent taxes — collection — procedure.
245.205. Secretary of board to extend and certify levee tax to collector-treasurers — duties of collector-treasurer — county collector-treasurer to collect delinquent taxes.
246.005. Extension of time of corporate existence — reinstatement period for certain districts.
247.060. Board of directors — powers — qualifications — appointment — terms — vacancies, how filled — elections held, when, procedure.
247.180. Elections in district, when, procedure — not required, when — vacant post, how filled.
249.1150. District authorized, opt out procedure, powers — resolution may be adopted by county commission for service by district — board of trustees, members, terms — maintenance plan required, when — property tax levy, ballot form — termination of tax, procedure (Barry, Christian, Douglas, Greene, Ozark, Stone, Taney, Webster, and Wright counties).
250.140. Services deemed furnished both to occupant and owner of premises — payment delinquency, notice of termination sent to both occupant and owner of premises — applicability — unapplied-for utility services, defined.
263.245. Brush adjacent to county roads, to be removed, certain counties — county commission may remove brush, when, procedures, certain counties.
278.240. District board of supervisors to govern watershed district, combined boards to govern, when — trustees of watershed district, how elected, terms — powers of directors — mileage reimbursement authorized.
301.025. Personal property taxes and federal heavy vehicle use tax, paid when — tax receipt forms — failure to pay personal property tax, effect of, notification requirements, reinstatement fee, appeals — rulemaking, procedure.
311.087. Portable bars, entertainment district special license — definitions — issuance, procedure (Kansas City).
313.800. Definitions — additional games of skill, commission approval, procedures.
313.820. Admission fee, amount, division of — licensees subject to all other taxes, collection of nongaming taxes by department of revenue — cap on amount to be collected, exceptions.
320.121. Powers of cities and certain counties to regulate or prohibit fireworks.
321.120. Election before decree becomes conclusive — decree to determine number of directors — ballot form — successor directors, terms — may increase number of directors, exception — ballot, form — terms.
321.190. Attendance fees authorized — reimbursement for expenses — secretary and treasurer, additional compensation, how set, limitation.
321.220. Powers of board — employee benefits plan.
321.322. Cities with population of 2,500 to 65,000 with fire department, annexing property in a fire protection district — rights and duties, procedure — exception.
321.603. Attendance fees permitted, fire district board members (first classification charter counties).
349.045. Board of directors, qualifications, appointment, terms — requirements for Lewis County.
393.015. Sewer company may contract with water company to terminate water services for nonpayment of sewer bill — procedure — immunity — costs, reimbursement.
393.016. Termination of water service for nonpayment of sewer bill, when — immunity from civil liability — procedure to establish agreement, contents of agreement — exceptions.

447.620. Definitions.
447.622. Petition, requirements.
447.625. Procedures in home rule cities.
447.640. Quitclaim judicial deed may be granted, conditions, effect.
473.770. Deputies, appointment, tenure, compensation, powers (first classification counties) — delegation of duties, certain counties.
473.771. Deputies, appointment in all counties but counties of the first classification — tenure — compensation — powers — delegation to deputies.
478.570. Circuit No. 17, number of judges, divisions — when judges elected.
478.600. Circuit No. 11, number of judges, divisions — when judges elected — drug commissioner to become associate circuit judge position.
488.2220. Violation of ordinances, municipal court cases, additional court costs, certain cities (Kansas City and Springfield).
537.600. Sovereign immunity in effect — exceptions.
559.607. Municipal ordinance violations, probation may be contracted for by municipal courts, procedure — cost to be paid by offenders, exceptions.
644.076. Unlawful acts prohibited — false statements and negligent acts prohibited — penalties — exception.
701.038. Sewage complaints, investigation by department, when — right to inspect adjoining property, procedure requiring notice, exception.
701.053. Registered on-site disposal system contractor, form, qualifications — registration issued by county to be deemed state registration.
1. Governor authorized to convey state property in Buchanan County.
2. Governor authorized to convey state property in Park Hills, St. Francois County.
3. Base salary schedules for county officials — salary commission responsible for computation of county official salaries, except for charter counties.
4. Recreation sales tax authorized (Madison County) — ballot language — rate, use of moneys — expiration date.
5. Department of Natural Resources authorized to convey state property at Fort Davidson State Historic Park to the city of Pilot Knob.
6. Governor authorized to convey state property in Cole County (state health lab and EDP building).
7. Governor authorized to convey state property in Lafayette County.
249.1152. Resolution or petition, contents — county order or ordinance, contents — hearing procedures — property tax levy, ballot form — board of trustees created, members, terms — authority of district — dissolution of a district, procedures.
249.1154. Groundwater depletion areas designated — volume monitoring may be required.
640.635. Wastewater analysis, license required, criteria — rulemaking authority — fee, rate.

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

SECTION A. ENACTING CLAUSE. — Sections 44.090, 49.093, 49.272, 50.343, 50.530, 50.760, 50.770, 50.780, 50.1030, 52.317, 54.010, 54.280, 54.320, 54.330, 55.160, 59.005, 64.215, 64.940, 65.030, 65.110, 65.150, 65.160, 65.180, 65.190, 65.200, 65.220, 65.230, 65.300, 65.460, 65.490, 65.600, 65.610, 67.459, 67.469, 67.1003, 67.1062, 67.1067, 67.1069, 67.1070, 67.1350, 67.1401, 67.1451, 67.1754, 67.1775, 67.1850, 71.012, 71.794, 82.291, 82.1025, 94.270, 94.700, 100.050, 100.059, 105.711, 115.013, 115.019, 135.010, 136.010, 136.160, 137.073, 137.078, 137.100, 137.106, 137.115, 137.465, 137.585, 137.720, 138.100, 139.040, 139.055, 139.120, 139.350, 139.400, 139.420, 139.430, 139.440, 139.450, 139.460, 140.150, 165.071, 190.010, 190.015, 190.090, 190.292, 190.335, 205.010, 210.860, 210.861, 217.905, 231.230, 231.444, 233.295, 242.560, 245.205, 246.005, 247.060, 247.180, 249.1150, 249.1152, 249.1154, 250.140, 263.245, 278.240, 301.025, 313.800, 313.820, 320.121, 321.120, 321.190, 321.220, 321.322, 321.603, 349.045, 393.015, 447.620, 447.622, 447.625, 447.640, 473.770, 473.771, 478.570, 478.600, 488.2220, 559.607, 537.600, 640.635, 644.076, 701.038, and 701.053, RSMo, and section 137.130 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, and section 137.130 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, are repealed and one hundred sixty-five new sections enacted in lieu thereof, to be known as sections 44.045, 44.090, 49.093, 49.272, 50.343, 50.530, 50.760, 50.770, 50.780, 50.783, 50.784, 50.1030, 50.1031, 52.317, 54.010, 54.280, 54.320, 54.330, 55.160, 59.005, 59.044, 64.215, 64.940,

65.030, 65.110, 65.150, 65.160, 65.180, 65.183, 65.190, 65.200, 65.220, 65.230, 65.300, 65.460, 65.490, 65.600, 65.610, 67.055, 67.459, 67.469, 67.1003, 67.1062, 67.1067, 67.1069, 67.1070, 67.1159, 67.1305, 67.1350, 67.1401, 67.1451, 67.1754. 67.1775, 67.1809, 67.1850, 67.2555, 71.012, 71.794, 79.600, 82.291, 82.301, 82.302, 82.303, 82.305, 82.1025, 94.270, 94.700, 94.837, 94.838, 99.1080, 99.1082, 99.1086, 99.1088, 99.1090, 99.1092, 100.050, 100.059, 105.711, 115.013, 115.019, 115.348, 135.010, 136.010, 136.160, 137.071, 137.073, 137.078, 137.100, 137.106, 137.115, 137.122, 137.130, 137.465, 137.585, 137.720, 138.100, 139.040, 139.055, 139.120, 139.350, 139.400, 139.420, 139.430, 139.440, 139.450, 139.460, 140.150, 165.071, 190.010, 190.015, 190.090, 190.292, 190.335, 198.345, 205.010, 210.860, 210.861, 215.246, 217.905, 231.230, 231.444, 233.295, 242.560, 245.205, 246.005, 247.060, 247.180, 249.1150, 250.140, 263.245, 278.240, 301.025, 311.087, 313.800, 313.820, 320.121, 321.120, 321.190, 321.220, 321.322, 321.603, 349.045, 393.015, 393.016, 447.620, 447.622, 447.625, 447.640, 473.770, 473.771, 478.570, 478.600, 488.2220, 537.600, 559.607, 644.076, 701.038, 701.053, 1, 2, 3, 4, 5, 6, and 7, to read as follows:

44.045. HEALTH CARE PROFESSIONALS MAY BE DEPLOYED DURING A STATE OF EMERGENCY — RELEASE OF CERTAIN CONFIDENTIAL INFORMATION PERMITTED, WHEN. — 1. Subject to approval by the state emergency management agency during an emergency declared by the governor or general assembly, any health care professional licensed, registered, or certified in this state may be deployed to provide care as necessitated by the emergency, including care necessitated by mutual aid agreements between political subdivisions and other public and private entities under section 44.090.

2. In a declared state of emergency, the department of health and senior services and the division of professional registration within the department of economic development may release otherwise confidential contact and licensure, registration, or certification information relating to health care professionals, to state, local, and private agencies to facilitate deployment.

44.090. MUTUAL-AID AGREEMENTS — PARTICIPATION IN STATEWIDE MUTUAL AID SYSTEM — REIMBURSEMENT FOR SERVICES PROVIDED, BENEFITS. — 1. The executive officer of any political subdivision may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the state for reciprocal emergency aid. Such arrangements or agreements shall be consistent with the state disaster plan and program and the provisions of section 70.837, RSMo, and section 320.090, RSMo. In time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual-aid arrangements or agreements.

2. **[**The coordinator of each local organization for emergency management may assist in negotiation of reciprocal mutual-aid agreements between the coordinator's organization and other public and private agencies and between the governor and the adjoining states or political subdivisions thereof, and shall carry out arrangements or agreements relating to the local unit.**]** **Any contracts that are agreed upon may provide for compensation from the parties and other terms that are agreeable to the parties and may be for an indefinite period as long as they include a sixty-day cancellation notice provision by either party. The contracts agreed upon may not be entered into for the purpose of reduction of staffing by either party.**

3. At the time of significant emergency such as fire, earthquake, flood, tornado, hazardous material incident, terrorist incident, or other such manmade or natural emergency disaster anywhere within the state or bordering states, the highest ranking official of a political subdivision available may render aid to any requesting political jurisdiction, even without written agreement, as long as he or she is in accordance with the policies and procedures set forth by the governing board of that jurisdiction.

4. When responding to mutual aid or emergency aid requests, political subdivisions shall be subject to all provisions of law as if it were providing service within its own jurisdiction.

5. All political subdivisions within the state are, upon enactment of this legislation or execution of an agreement, automatically a part of the Missouri statewide mutual aid system. A political subdivision within the state may elect not to participate in the statewide mutual aid system upon enacting an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system and by providing a copy of the resolution to the state fire marshal and state emergency management agency.

6. Emergency response agencies shall include fire service organizations, law enforcement agencies, emergency medical service organizations, public health and medical personnel, emergency management officials, infrastructure departments, public works agencies, and those other agencies, organizations, and departments that have personnel with special skills or training that are needed to provide services during an emergency or disaster.

7. It shall be the responsibility of each political subdivision to adopt and put into practice the National Incident Management System promulgated by the United States Department of Homeland Security.

8. In the event of a disaster that is beyond the capability of local political subdivisions, the local governing authority may request assistance under this section.

9. Any entity or individual that holds a license, certificate, or other permit issued by a participating political subdivision or state shall be deemed licensed, certified, or permitted in the requesting political subdivision for the duration of the declared emergency or authorized drill.

10. Reimbursement for services rendered under this section shall be in accordance with state and federal guidelines. Any political subdivision providing assistance shall receive appropriate reimbursement according to those guidelines.

11. Applicable benefits normally available to personnel while performing duties for their jurisdiction are also available to such persons when an injury or death occurs when rendering assistance to another political subdivision under this section. Responders shall be eligible for the same state and federal benefits that may be available to them for line of duty deaths if such services are otherwise provided for within their jurisdiction.

12. All activities performed under this section are deemed to be governmental functions. For the purposes of liability, all participating political subdivisions responding under operational control of the requesting political subdivision are deemed employees of such participating political subdivision.

49.093. COUNTY DEPARTMENT OFFICERS TO INSPECT AND INVENTORY PERSONAL PROPERTY USED BY DEPARTMENT — ADDITIONAL INVENTORY INSPECTED BY COUNTY CLERK — REPORT TO BE FILED AND SIGNED BY CLERK (COUNTIES OF THE THIRD AND FOURTH CLASSIFICATION). — 1. In counties of the third and fourth classification, the county officer or the county officer's designee of each county department shall, annually, on or before the tenth day of October, inspect and inventory all office equipment and machines, road machinery, farm supplies, equipment and produce on hand and all other personal property belonging to the county and used by such department of an individual original value of **[**two hundred fifty**] one thousand** dollars or more of whatsoever kind or description **[**and any property with an aggregate original value of one thousand dollars or more**]**. The county officer or the county officer's designee of each county department shall have the discretion to inspect and inventory any office equipment or county property used by such department with an original value of less than **[**two hundred fifty**] one thousand** dollars. Such inventory shall list such property by keeping a continuous annual inventory of each item identified by descriptive name,

and on manufactured goods the manufacturer's serial number, model, age and estimated market value, and after the first inventory taken pursuant to this section, there shall be attached to subsequent inventories a statement or explanation of any material changes over that of the previous year, showing in particular the disposition of any county property, the reason for its disposal, to whom disposed and the amount received therefor.

2. All remaining property not inventoried by a particular department of such county shall be inventoried by the county clerk of such county in the same manner as items are inventoried pursuant to subsection 1 of this section.

3. The reports required by this section shall be signed by the county clerk.

49.272. COUNTY COUNSELOR MAY IMPOSE FINE FOR CERTAIN VIOLATIONS OF RULES, REGULATIONS OR ORDINANCES, AMOUNT (BOONE, CASS, JASPER, JEFFERSON, AND GREENE COUNTIES). — 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, 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, **any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants, any county of the first classification with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants,** and any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four 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.

50.343. COMPENSATION OF CERTAIN OFFICERS, HOW COMPUTED (ST. CHARLES, CLAY, JEFFERSON, GREENE AND CERTAIN OTHER COUNTIES). — 1. Other provisions of law to the contrary notwithstanding, in any first classification nonchartered county, including any county containing any part of a city with a population of three hundred thousand or more, the annual salary of a county recorder of deeds, clerk, auditor, county commissioner, collector, treasurer, assessor or salaried public administrator may be computed on an assessed valuation basis**, without regard to modification due to the existence of enterprise zones or financing under chapter 100, RSMo,** as set forth in the following schedule except as provided in subsection 2 of this section. The assessed valuation factor shall be the amount thereof as shown for the year next preceding the computation. The provisions of this section shall not permit a reduction in the amount of compensation being paid on January 1, 1997, for any of the offices subject to this section on January 1, 1997.

(1) For a recorder of deeds, clerk, auditor, presiding commissioner, collector, treasurer, assessor, or salaried public administrator:

Assessed Valuation	Salary
$ 450,000,001 to 600,000,000	$47,000
600,000,001 to 750,000,000	49,000
750,000,001 to 900,000,000	51,000
900,000,001 to 1,050,000,000	53,000
1,050,000,001 to 1,200,000,000	55,000
1,200,000,001 to 1,350,000,000	57,000
1,350,000,000 and over	59,000

(2) Presiding commissioners shall receive a salary of two thousand dollars more than the salary received by the associate commissioners.

2. After December 31, 1990, in any county of the second classification which becomes a first classification county without a charter form of government, the annual compensation of county recorder of deeds, clerk, auditor, county commissioner, collector, treasurer, assessor and the public administrator in counties where the public administrator is paid a salary under the provisions of section 473.740, RSMo, may be set at the option of the salary commission. On or before October first of the year immediately prior to the beginning of the county fiscal year following the general election after the certification by the state equalizing agency that the county possesses an assessed valuation placing it in first classification status, the salary commission shall meet for the purpose of setting compensation for such county officials and such compensation shall be payable immediately except that no compensation of any county official shall be reduced and the compensation of presiding county commissioners in any of such counties shall be two thousand dollars more than the compensation paid to the associate commissioners in that county. Thereafter in all such counties the salary commission shall meet for the purpose of setting the compensation of the officers in this subsection who will be elected at the next general election, and such compensation shall be payable upon the beginning of the next term of office of such officers; except that, no compensation of any officer shall be reduced and the compensation of presiding county commissioners in any of such counties shall be two thousand dollars more than the compensation paid to the associate commissioners in that county. Two thousand dollars of the compensation established under the procedures authorized pursuant to this subsection shall be payable to a county officer only if the officer has completed at least twenty hours of classroom instruction in the operation of the office in the same manner as provided by law for officers subject to the provisions of section 50.333. At the salary commission meeting which establishes the percentage rate to be applied to county officers during the next term of office, the salary commission may authorize the further adjustment of such officers' compensation as a cost-of-living component and effective January first of each year, the compensation for county officers may be adjusted by the county commission, not to exceed the percentage increase given to the other county employees.

3. Other provisions of this section to the contrary notwithstanding, at the option of a majority of the county salary commission members, the salary of associate commissioners of a county of the first classification without a charter form of government with a population of at least eighty-two thousand but not more than eighty-five thousand inhabitants may be set at no more than sixty-five percent of the amount on the salary schedule for the county affected.

50.530. DEFINITIONS.— As used in sections 50.530 to 50.745:

(1) "Accounting officer" means county auditor in counties of **[**classes one and two**] the first and second classifications** and the county clerks in counties of **[**classes three and four**] the third and fourth classifications**;

(2) "Budget officer" means such person, as may, from time to time, be appointed by the county commission of **[**class one**]** counties **of the first classification** except in **[**class one**]** counties **of the first classification** with a population of less than one hundred thousand inhabitants according to the official United States Census of 1970 the county auditor shall be the chief budget officer, the presiding commissioner of the county commission in **[**class two**]** counties **of the second classification**, unless the county commission designates the county clerk as budget officer, and the county clerk in counties of **[**class three and four**] the third and fourth classification. Notwithstanding the provisions of this subdivision to the contrary, in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants, the presiding commissioner shall be the budget officer unless the county commission designates the county clerk as the budget officer**.

50.760. ADVERTISEMENT FOR BIDS, PROCEDURE FOR — PURCHASE AT PUBLIC AUCTIONS — PURCHASE ORDER REQUIRED (SECOND CLASS AND CERTAIN FIRST CLASS COUNTIES). — **1.** It shall be the duty of the commissioners of the county commission in all counties of the second class, and in all counties of the first class not having a charter form of government**,** if there is no purchasing agent appointed pursuant to section 50.753, on or before the first day of February of each year, to **[**determine**] estimate** the kind and quantity of supplies, including any advertising or printing which the county may be required to do, required by law to be paid for out of the county funds, which will be necessary for the use of the several officers of such county **[**during the current**] for the following** year, and to advertise for sealed bids and contract with the lowest and best bidder for such supplies. Before letting any such contract or contracts the commission shall cause notice that it will receive sealed bids for such supplies to be given by advertisement in some **[**daily**]** newspaper of general circulation published in the county, such notice to be published **[**on Thursday of each**] once per** week for three consecutive weeks, the last insertion of which shall not be less than ten days before the date in said advertisement fixed for the letting of such contract or contracts, which shall be let on the first Monday in March, or on such other day and date as the commission may fix between the first Monday of March and the first Saturday after the second Monday in March next following the publication of such notice; except that if by the nature or quantity of any article or thing needed for any county officer in any county of this state to which sections 50.760 to 50.790 apply, the same may not be included in such contract at a saving to such county, then such article or thing may be purchased for such officer upon an order of the county commission first being made and entered as provided in sections 50.760 to 50.790; and except further, that if any supplies not included in such contract are required by any such officer or if the supplies included in such contract are exhausted then such article or thing may be purchased for such officer upon order of the county commission first being made and entered of record as provided in sections 50.760 to 50.790.

2. The county commission may authorize the purchase of supplies, not including for contractual services, at any public auction held.

3. No contract for a purchase under this section shall arise until the commission has approved a purchase order for the supplies for which the bids were advertised and submitted under this section.

50.770. SUPPLIES DEFINED (SECOND CLASS AND CERTAIN FIRST CLASS COUNTIES). — The word "supplies", as used in sections 50.760 to 50.790, **means materials, equipment, contractual services, and** shall be held and construed to include every article or thing**, excluding utility services regulated under chapters 392 and 393, RSMo,** for which payment may by law be required to be made by the county, and including advertising and printing required to be done by the county. **The term "purchase" includes the rental or leasing of any equipment, articles, or things.**

50.780. COMMISSIONS MAY PERMIT OFFICERS TO PURCHASE SUPPLIES DIRECT — LIABILITY THEREFOR — PREFERENCE IN BIDS — WAIVER, WHEN (SECOND CLASS AND CERTAIN FIRST CLASS COUNTIES). — **1.** It shall hereafter be unlawful for any county or township officer in any county to which sections 50.760 to 50.790 apply to purchase any supplies not contracted for as provided in sections 50.760 to 50.790 for **[**his**] the officer's** official use and for which payment is by law required to be made by the county unless **[**he**] the officer** shall first apply to and obtain from the county commission an order in writing and under the official seal of the commission for the purchase of such supplies, and in all cases where the supplies requested by such officer have been contracted for by the county commission as provided in sections 50.760 to 50.790, the order shall be in the form of a requisition by said officer addressed to the person, firm, company or corporation with whom or which the county commission has made a contract for such supplies, and presented to the county commission for

approval or disapproval; and unless approval be given such requisition shall not be filled and any such requisition filled without such approval shall not be paid for out of county funds. The county shall not be liable for any debts for supplies except debts contracted as provided in sections 50.760 to 50.790. The best price and the quality of supplies shall be considered and supplies of a higher price or quality than is reasonably required for the purposes to which they are to be applied shall not be purchased or contracted for. Preference to merchants and dealers within their counties may be given by such commissioners, provided the price offered is not above that offered elsewhere.

2. The county commission may waive the requirement of competitive bids or proposals for supplies when the county commission has determined that there exists a threat to life, property, public health, or public safety or when immediate expenditure is necessary for repairs to county property in order to protect against further loss of, or damage to, county property, to prevent or minimize serious disruption in county services or to ensure the integrity of county records. Emergency procurements shall be made with as much competition as is practicable under the circumstances. After an emergency procurement is made by the county commission, the nature of the emergency and the vote approving the procurement shall be noted in the minutes of the next regularly scheduled meeting.

50.783. WAIVER OF COMPETITIVE BID REQUIREMENTS, WHEN — RESCISSION OF WAIVER, WHEN — SINGLE FEASIBLE SOURCE PURCHASES. — 1. The county commission may waive the requirement of competitive bids or proposals for supplies when the commission has determined in writing and entered into the commission minutes that there is only a single feasible source for the supplies. Immediately upon discovering that other feasible sources exist, the commission shall rescind the waiver and proceed to procure the supplies through the competitive processes as described in this chapter. A single feasible source exists when:

(1) Supplies are proprietary and only available from the manufacturer or a single distributor; or

(2) Based on past procurement experience, it is determined that only one distributor services the region in which the supplies are needed; or

(3) Supplies are available at a discount from a single distributor for a limited period of time.

2. On any single feasible source purchase where the estimated expenditure is three thousand dollars or over, the commission shall post notice of the proposed purchase. Where the estimated expenditure is five thousand dollars or over, the commission shall also advertise the commission's intent to make such purchase in at least one daily and one weekly newspaper of general circulation in such places as are most likely to reach prospective bidders or offerors and may provide such information through an electronic medium available to the general public at least ten days before the contract is to be let.

50.784. PROCUREMENT AUTHORITY DELEGATION PERMITTED, WHEN — ACCEPTING DEPARTMENT'S DUTIES. — The county commission may, when in the commission's best judgment it is in the best interests of the county, delegate the commission's procurement authority under this chapter to an individual county department; provided, however, that each instance of single feasible source purchasing authority in excess of five thousand dollars under section 50.783 shall be specifically delegated by the commission. The delegation may allow county departments to negotiate the purchase of services for patients, residents, or clients with funds appropriated for this purpose. In accepting this delegated authority the department acknowledges its ability to, and agrees to, fulfill all of the requirements of this chapter in making purchases and entering into contracts and keeping records. No claim for payment based upon any purchase under this section shall be certified by the commission unless accompanied by such documentation of compliance

with the provisions of this chapter as the commission may require. Any department that fails to fulfill all such requirements may have its delegated authority rescinded by the commission. A full and detailed listing of vendors, supplies purchased, and warrants issued for single or multiple source payments shall be retained by the custodian of records.

50.1030. BOARD OF DIRECTORS, ELECTION, APPOINTMENT BY THE GOVERNOR, TERM, POWERS, DUTIES — CHAIRMAN, SECRETARY, MEETINGS — ADVISORS — AUDITS — COMPENSATION, COSTS — RECORD — ANNUAL REVIEW. — 1. The general administration and the responsibility for the proper operation of the fund and the system and the investment of the funds of the system are vested in a board of directors of eleven persons. Nine directors shall be elected by a secret ballot vote of the county employee members of this state. Two directors, who have no beneficiary interest in the system, shall be appointed by the governor with the advice and consent of the senate. No more than one director at any one time shall be employed by the same elected county office. Directors shall be chosen for terms of four years from the first day of January next following their election. It shall be the responsibility of the board to establish procedures for the conduct of future elections of directors and such procedures shall be approved by a majority vote by secret ballot by members of the system. The board shall have all powers and duties that are necessary and proper to enable it, its officers, employees and agents to fully and effectively carry out all the purposes of sections 50.1000 to 50.1300.

2. The board of directors shall elect one of their number as chairman and one of their number as vice chairman and may employ an administrator who shall serve as secretary to the board. The board shall hold regular meetings at least once each quarter. Board meetings shall be held in Jefferson City. Other meetings may be called as necessary by the chairman. Notice of such meetings shall be given in accordance with chapter 610, RSMo.

3. The board of directors shall retain an actuary as technical advisor to the board.

4. The board of directors shall retain investment counsel to be an investment advisor to the board.

5. The state auditor shall provide for biennial audits of the Missouri county employees' retirement system and the operations of the board, to be paid for out of the funds of the system.

6. The board of directors shall serve without compensation for their services, but each director shall be paid out of the funds of the system for any actual and necessary expenses incurred in the performance of duties authorized by the board.

7. The board of directors shall be allowed administrative costs for the operation of the system to be paid out of the funds of the system.

8. The board shall keep a record of its proceedings which shall be open to public inspection. It shall annually prepare a report showing the financial condition of the system. The report shall contain, but not be limited to, an auditor's opinion, financial statements prepared in accordance with generally accepted accounting principles, an actuary's certification along with actuarial assumptions and financial solvency tests.

9. The board shall conduct an annual review, to determine if, among other things, the following actions are actuarially feasible:

(1) An adjustment to the formula described in section 50.1060, subject to the limitations of subsection 4 of section 50.1060;

(2) An adjustment in the flat dollar pension benefit credit described in subsection 1 of section 50.1060;

(3) The cost-of-living increase as described in section 50.1070;

(4) An adjustment in the matching contribution described in section 50.1230;

(5) An adjustment in the twenty-five year service cap on creditable service; **[**or**]**

(6) An adjustment to the target replacement ratio**; or**

(7) An additional benefit or enhancement which will improve the quality of life of future retirees.

Based upon the findings of the actuarial review, the board may **[**recommend to the general assembly an actual change to implement**] vote to change** none, one, or more than one of the above **[**actions**] items, subject to the actuarial guidelines outlined in section 50.1031**.

50.1031. BENEFIT ADJUSTMENTS, REQUIRED ASSETS-TO-LIABILITY RATIO — FREQUENCY OF ADJUSTMENTS — EFFECTIVE DATE OF ADJUSTMENTS. — 1. No adjustments may be made until the fund has achieved a funded ratio of assets to the actuarial accrued liability equaling at least eighty percent. No benefit adjustment shall be adopted which causes the funded ratio to fall more than five percent.

2. Adjustments may be made no more frequently than once every twelve months.

3. Any adjustment or combination of adjustments within a twelve-month period may increase the actuarially determined, normally required annual contribution as a percentage of payroll no more than one percent.

4. Adjustments, other than those in subdivision (3) of subsection 9 of section 50.1030, will apply only with respect to active employees on the effective date of any adjustment.

52.317. MONEYS PROVIDED FOR BUDGET PURPOSES, REQUIREMENTS — MONEYS REMAINING IN FUND AT END OF CALENDAR YEAR, REQUIREMENTS — ONE-TIME EXPENDITURES, COMMON FUND PERMITTED. — 1. Any county subject to the provisions of section 52.312 shall provide moneys for budget purposes in an amount not less than the approved budget in the previous year and shall include the same percentage adjustments in compensation as provided for other county employees as effective January first each year. Any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties of the first classification without a charter form of government and any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants shall be limited to an amount equal to one-half of the previous year's approved budget for the office of collector, and any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties other than counties of the first classification and any city not within a county, which collect more than four million dollars of all current taxes charged to be collected, shall be limited to an amount equal to the previous year's approved budget for the office of collector. Any moneys remaining in the tax maintenance fund as of December thirty-first each year that exceed the above-established limits shall be transferred to county general revenue by the following January fifteenth of each year.

2. For one-time expenditures directly attributable to any department, office, institution, commission, or county court, the county commission may budget such expenses in a common fund or account so that any such expenditures separately budgeted do not appear in any specific department, county office, institution, commission, or court budget.

54.010. OFFICE CREATED — ELECTION. — 1. There is created in all the counties of this state the office of county treasurer**, except that in those counties having adopted the township alternative form of county government the qualified electors shall elect a county collector-treasurer**.

2. In counties of classes one and two the qualified electors shall elect a county treasurer at the general election in 1956 and every four years thereafter.

3. In counties of **[**classes three and four**] the third and fourth classifications** the qualified electors shall elect a county treasurer at the general election in the year 1954, and every four years thereafter, except that in those counties having adopted the township alternative form of county government the qualified electors shall elect a county **[**treasurer**] collector-treasurer** at the November election in 1956, and every four years thereafter.

4. Laws generally applicable to county collectors, their offices, clerks, and deputies shall apply to and govern county collector-treasurers in counties having township

organization, except when such general laws and such laws applicable to counties of the third and fourth classification conflict with the laws specifically applicable to county collector-treasurers, their offices, clerks, and deputies in counties having township organization, in which case, such laws shall govern.

54.280. COUNTY COLLECTOR-TREASURER, DUTIES — FEES AUTHORIZED. — 1. The county **[**treasurer**]** **collector-treasurer** of counties having adopted or which may hereafter adopt township organization shall **[**be ex officio collector, and shall**]** have the **[**same**]** power to collect all **current, back, and** delinquent **real and** personal property taxes, **including merchants' and manufacturers'** licenses, **[**merchants' taxes,**]** taxes on railroads **and utilities,** and other corporations, the **current and** delinquent or nonresident lands or town lots, **and all other local taxes, including ditch and levee taxes,** and to prosecute for and make sale thereof, the same that is now or may hereafter be vested in the county collectors under the general laws of this state. The **[**ex officio collector**]** **collector-treasurer** shall, at the time of making his annual settlement in each year, deposit the tax books **[**returned by the township collectors**]** in the office of the county clerk, and within thirty days thereafter the clerk shall make, in a book to be called "the back tax book", a correct list, in numerical order, of all tracts of land and town lots which have been returned delinquent **[**by said collectors**]**, and return said list to the **[**ex officio collector**]** **collector-treasurer**, taking his **or her** receipt therefor.

2. Notwithstanding any other provision of law to the contrary, for the collection of all current and current delinquent taxes, the collector-treasurer shall collect on behalf of the county the following fees to be deposited into the county general fund:

(1) In any county in which the total amount of taxes levied for any one year is five million dollars or less, a fee of three percent on the total amount of taxes levied;

(2) In any county in which the total amount of taxes levied for any one year exceeds five million dollars but is equal to or less than nine million dollars, a fee of two and one-half percent on the total amount of taxes levied;

(3) In any county in which the total amount of taxes levied for any one year is greater than nine million dollars but equal to or less than thirteen million dollars, a fee of two percent on the total amount of taxes levied;

(4) In any county in which the total amount of taxes levied for any one year is greater than thirteen million dollars, a fee of one and one-half percent on the total amount of taxes levied.

54.320. COLLECTOR-TREASURER, COMPENSATION — FEES — DEPUTIES AND ASSISTANTS, COMPENSATION — TRAINING PROGRAM, ATTENDANCE REQUIRED, EXPENSES, COMPENSATION (TOWNSHIP COUNTIES). — 1. The county **[**treasurer ex officio collector**]** **collector-treasurer** in counties of the third and fourth classifications adopting township organization shall receive an annual salary as set forth in the following schedule. The assessed valuation factor shall be the amount thereof as shown for the year next preceding the computation. A county **[**treasurer ex officio collector**]** **collector-treasurer** subject to the provisions of this section shall not receive an annual compensation less than the total compensation being received by the county treasurer ex officio collector in that county for services rendered or performed for the period beginning March 1, 1987, and ending February 29, 1988. The county **[**treasurer ex officio collector**]** **collector-treasurer** shall receive the same percentage adjustments provided by county salary commissions for county officers in that county pursuant to section 50.333, RSMo. The provisions of this section shall not permit or require a reduction in the amount of compensation being paid for the office of county treasurer ex officio collector on January 1, 1997, or less than the total compensation being received for the services rendered or performed for the period beginning March 1, 1987, and ending February 29, 1988. The salary shall be computed on the basis of the following schedule:

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 to 449,999,999	45,000

In addition, the **[**ex officio collector**]** **collector-treasurer** shall **[**be allowed to retain a commission**]** **collect on behalf of the county a fee** for the collection of all back taxes and all delinquent taxes of two percent on all sums collected to be added to the face of the tax bill, and collected from the party paying the tax. The **[**ex officio collector**]** **collector-treasurer** shall **[**be allowed a commission**]** **collect on behalf of the county a fee** of three percent on all licenses, **[**and all taxes,**]** including current **railroad and utility** taxes, **surtax,** back taxes, delinquent taxes and interest collected by the **[**ex officio collector**]** **collector-treasurer**, to be deducted from the amounts collected. **[**The three percent allowed to be retained shall be withheld on behalf of the county and shall be deposited in the county treasury or as provided by law and beginning January 1, 1989, the two percent allowed to be retained for collection of all back taxes and delinquent taxes shall be withheld on behalf of the county and shall be deposited in the county treasury or as provided by law.**]** **The collector-treasurer shall collect on behalf of the county for the purpose of mailing statements and receipts required by section 139.350, RSMo, a fee of one-half of one percent on all licenses and all taxes, including current taxes, back taxes, delinquent taxes, and interest collected by the collector-treasurer, to be deducted from the amounts collected. All fees collected under this section shall be collected on behalf of the county and shall be deposited in the county treasury or as provided by law. Collector-treasurers in counties having a township form of government are entitled to collect such fees immediately upon an order of the circuit court under section 139.031, RSMo. If the protest is later sustained and a portion of the taxes so paid is returned to the taxpayer the county shall return that portion of the fee collected on the amount returned to the taxpayer.** The **[**treasurer ex officio collector**]** **collector-treasurer** in each of the third and fourth classification counties which have adopted the township form of county government is entitled to employ deputies and assistants, and for the deputies and assistants is allowed not less than the amount allowed in **[**1992 or 1993**]** **2003-2004**, whichever is greater.

2. **Notwithstanding any provisions of law to the contrary, the collector-treasurer in each county of the third or fourth classification having a township form of government shall employ not fewer than one full-time deputy. The collector-treasurer may employ such number of deputies and assistants as may be necessary to perform the duties of the office of collector-treasurer promptly and correctly, as determined by the collector-treasurer. The office of the collector-treasurer shall be funded sufficiently to compensate deputies and assistants at a level no less than the compensation provided for other county employees. Such deputies and assistants shall be allowed adjustments in compensation at the same percentage as provided for other county employees, as effective January first each year.**

3. Two thousand dollars of the salary authorized in this section shall be payable to the **[**treasurer ex officio collector**]** **collector-treasurer** only if such officer has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the **[**treasurer ex officio collector's**]** **collector-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 ex officio collector**] collector-treasurer** who completes the training program and shall send a list of certified **[**treasurer ex officio collectors**] collector-treasurers** to the county commission of each county. Expenses incurred for attending the training session may be reimbursed to the county **[**treasurer ex officio collector**] collector-treasurer** in the same manner as other expenses as may be appropriated for that purpose.

54.330. BONDS OF COLLECTOR-TREASURERS — BOND REQUIREMENTS FOR DEPUTIES AND ASSISTANTS. — 1. County **[**treasurers, as ex officio county collectors of counties under**] collector-treasurers in a county having** township organization, shall be required to give bonds as other county collectors under the general revenue law.

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

55.160. DUTIES (SECOND CLASS AND CERTAIN FIRST CLASS COUNTIES). — The auditor of each county of the first **[**class**] classification** not having a charter form of government and of each county of the second **[**class**] classification** shall keep an inventory of all county property under the control and management of the various officers and departments and shall annually take an inventory of such property at an original value of **[**two hundred fifty**] one thousand** dollars or more showing the amount, location and estimated value thereof. **[**He**] The auditor** shall keep accounts of all appropriations and expenditures made by the county commission, and no warrant shall be drawn or obligation incurred without **[**his**] the auditor's** certification that an unencumbered balance, sufficient to pay the same, remain in the appropriate account or in the anticipated revenue fund against which such warrant or obligation is to be charged. **[**He**] The auditor** shall audit the accounts of all officers of the county annually or upon their retirement from office. The auditor shall audit, examine and adjust all accounts, demands, and claims of every kind and character presented for payment against the county, and shall in **[**his**] the auditor's** discretion approve to the county commission of the county all lawful, true, just and legal accounts, demands and claims of every kind and character payable out of the county revenue or out of any county funds before the same shall be allowed and a warrant issued therefor by the commission. Whenever the auditor thinks it necessary to the proper examination of any account, demand or claim, **[**he**] the auditor** may examine the parties, witnesses, and others on oath or affirmation touching any matter or circumstance in the examination of such account, demand or claim before **[**he**] the auditor** allows same. The auditor shall not be personally liable for any cost for any proceeding instituted against **[**him**] the auditor** in **[**his**] the auditor's** official capacity. The auditor shall keep a correct account between the county and all county and township officers, and shall examine all records and settlements made by them for and with the county commission or with each other, and the auditor shall, whenever **[**he**] the auditor** desires, have access to all books, county records or papers kept by any county or township officer or road overseer. The auditor shall, during the first four days of each month, strike a balance in the case of each county and township officer, showing the amount of money collected by each, the amount of money due from each to the county, and the amount of money due from any source whatever to such office, and the auditor shall include in such balance any fees that have been returned to the county commission or to the auditor as unpaid and which since having been returned have been collected.

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

(1) "Document" or "instrument", any writing or drawing presented to the recorder of deeds for recording;

(2) "File", "filed" or "filing", the act of delivering or transmitting a document to the recorder of deeds for recording into the official public record;

(3) "Grantor" or "grantee", the names of the parties involved in the transaction used to create the recording index;

(4) "Legal description", includes but is not limited to the lot or parts thereof, block, plat or replat number, plat book and page and the name of any recorded plat or a metes and bounds description with acreage, if stated in the description, or the quarter/quarter section, and the section, township and range of property, or any combination thereof. The address of the property shall not be accepted as legal description;

(5) "Legible", all text, seals, drawings, signatures or other content within the document must be capable of producing a clear and readable image from record, regardless of the process used for recording;

(6) "Page", any writing, printing or drawing printed on one side only covering all or part of the page, not larger than eight and one-half inches in width and eleven inches in height for pages other than a plat or survey;

(7) "Record", "recorded" or "recording", the recording of a document into the official public record, regardless of the process used;

(8) "Recorder of deeds", the separate recorder of deeds in those counties where separate from the circuit clerk and the circuit clerk and ex officio recorder of deeds in those counties where the offices are combined**;**

(9) "Copying" or "reproducing", any recorded instrument or document, the act of making a single reproduction in any medium of a recorded document or instrument;

(10) "Duplicate", copies, copies requested concurrently with, but in excess of one reproduction in any medium of a recorded instrument or document or collection thereof.

59.044. CERTAIN RECORDERS TO BE PAID STATUTORY COMPENSATION. — In any county, except counties with a charter form of government, counties of the first classification, and any city not within a county, where the recorder of deeds is separate from that of the clerk of the circuit court, each recorder of deeds shall be paid the statutory compensation provided for by sections 50.333 and 50.334, RSMo.

64.215. COUNTY PLANNING BOARD, MEMBERS (EXCEPTION FOR CASS COUNTY), TERMS, REMOVAL, EXPENSES, CHAIRMAN (NONCHARTER FIRST CLASSIFICATION COUNTIES). — 1. Except as otherwise provided in subsection 2 of this section, the county planning board shall consist of one of the commissioners of the county commission selected by the county commission, the county highway engineer, both of whom shall serve during their tenure of office, **except that in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants such members shall be nonvoting members,** and six residents of the unincorporated territory of the county who shall be appointed by the county commission. The term of the six appointed members shall be four years or until their successor takes office, except that the original term of three of the six appointed members shall be two years. Members may be removed for cause by the county commission upon written charges after public hearings. Any vacancy may be filled by the county commission for the unexpired term of any member whose term becomes vacant, or until the member's successor takes office. All members of the board shall serve without compensation; except, that an attendance fee as reimbursement for expenses may be paid to the appointed members of the board in an amount, set by the county commission, not to exceed twenty-five dollars per meeting. The planning board shall elect its chairman from among the appointed members.

2. In any county of the first classification with a population of at least two hundred thousand inhabitants which does not adjoin any other county of the first classification, the county planning board may, at the option of the county commission, consist of one of the commissioners of the county commission selected by the county commission, and shall include the county highway engineer and six residents of the unincorporated territory of the county, who shall be appointed by the county commission. The county highway engineer and the county commissioner, if a member of the board, shall serve during such person's tenure of office. The term of the six appointed members shall be three years or until their successor takes office.

64.940. POWERS OF THE AUTHORITY. — 1. The authority shall have the following powers:

(1) To acquire by gift, bequest, purchase or lease from public or private sources and to plan, construct, operate and maintain, or to lease to others for construction, operation and maintenance a sports stadium, field house, indoor and outdoor recreational facilities, centers, playing fields, parking facilities and other suitable concessions, and all things incidental or necessary to a complex suitable for all types of sports and recreation, either professional or amateur, commercial or private, either upon, above or below the ground;

(2) To charge and collect fees and rents for use of the facilities owned or operated by it or leased from or to others;

(3) To adopt a common seal, to contract and to be contracted with, including, but without limitation, the authority to enter into contracts with counties and other political subdivisions under sections 70.210 to 70.320, RSMo, and to sue and to be sued;

(4) To receive for its lawful activities any contributions or moneys appropriated by municipalities, counties, state or other political subdivisions or agencies or by the federal government or any agency or officer thereof or from any other source;

(5) To disburse funds for its lawful activities and fix salaries and wages of its officers and employees;

(6) To borrow money for the acquisition, planning, construction, equipping, operation, maintenance, repair, extension and improvement of any facility, or any part or parts thereof, which it has the power to own or to operate, and to issue negotiable notes, bonds, or other instruments in writing as evidence of sums borrowed, as hereinafter provided in this section:

(a) Bonds or notes issued hereunder shall be issued pursuant to a resolution adopted by the commissioners of the authority which shall set out the estimated cost to the authority of the proposed facility or facilities, and shall further set out the amount of bonds or notes to be issued, their purpose or purposes, their date or dates, denomination or denominations, rate or rates of interest, time or times of payment, both of principal and of interest, place or places of payment and all other details in connection therewith. Any such bonds or notes may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the resolution.

(b) Such bonds or notes shall bear interest at a rate not exceeding eight percent per annum and shall mature within a period not exceeding fifty years and may be sold at public or private sale for not less than ninety-five percent of the principal amount thereof. Bonds or notes issued by an authority shall possess all of the qualities of negotiable instruments under the laws of this state.

(c) Such bonds or notes may be payable to bearer, may be registered or coupon bonds or notes and if payable to bearer, may contain such registration provisions as to either principal and interest, or principal only, as may be provided in the resolution authorizing the same which resolution may also provide for the exchange of registered and coupon bonds or notes. Such bonds or notes and any coupons attached thereto shall be signed in such manner and by such officers of the authority as may be provided for by the resolution authorizing the same. The authority may provide for the replacement of any bond or note which shall become mutilated, destroyed or lost.

(d) Bonds or notes issued by an authority shall be payable as to principal, interest and redemption premium, if any, out of the general funds of the authority, including rents, revenues, receipts and income derived and to be derived for the use of any facility or combination of facilities, or any part or parts thereof, acquired, constructed, improved or extended in whole or in part from the proceeds of such bonds or notes, including but not limited to stadium rentals, concessions, parking facilities and from funds derived from any other facilities or part or parts thereof, owned or operated by the authority, all or any part of which rents, revenues, receipts and income the authority is authorized to pledge for the payment of said principal, interest, and redemption premium, if any. Bonds or notes issued pursuant to this section shall not constitute an indebtedness of the authority within the meaning of any constitutional or statutory restriction, limitation or provision, and such bonds or notes shall not be payable out of any funds raised or to be raised by taxation. Bonds or notes issued pursuant to this section may be further secured by a mortgage or deed of trust upon the rents, revenues, receipts and income herein referred to or any part thereof or upon any leasehold interest or other property owned by the authority, or any part thereof, whether then owned or thereafter acquired. The proceeds of such bonds or notes shall be disbursed in such manner and under such restrictions as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in any such mortgage or deed of trust.

(e) It shall be the duty of the authority to fix and maintain rates and make and collect charges for the use and services of its interest in the facility or facilities or any part thereof operated by the authority which shall be sufficient to pay the cost of operation and maintenance thereof, to pay the principal of and interest on any such bonds or notes and to provide funds sufficient to meet all requirements of the resolution by which such bonds or notes have been issued.

(f) The resolution authorizing the issuance of any such bonds or notes may provide for the allocation of rents, revenues, receipts and income derived and to be derived by the authority from the use of any facility or part thereof into such separate accounts as shall be deemed to be advisable to assure the proper operation and maintenance of any facility or part thereof and the prompt payment of any bonds or notes issued to finance all or any part of the costs thereof. Such accounts may include reserve accounts necessary for the proper operation and maintenance of any such facility or any part thereof, and for the payment of any such bonds or notes. Such resolution may include such other covenants and agreements by the authority as in its judgment are advisable or necessary properly to secure the payment of such bonds or notes.

(g) The authority may issue negotiable refunding bonds or notes for the purpose of refunding, extending or unifying the whole or any part of such bonds or notes then outstanding, which bonds or notes shall not exceed the principal of the outstanding bonds or notes to be refunded and the accrued interest thereon to the date of such refunding, including any redemption premium. The authority may provide for the payment of interest on such refunding bonds or notes at a rate in excess of the bonds or notes to be refunded but such interest rate shall not exceed the maximum rate of interest hereinbefore provided.

(7) To condemn any and all rights or property, of any kind or character, necessary for the purposes of the authority, subject, however, to the provisions of sections 64.920 to 64.950 and in the manner provided in chapter 523, RSMo; provided, however, that no property now or hereafter vested in or held by the state or by any county, city, village, township or other political subdivisions shall be taken by the authority without the authority or consent of such political subdivisions;

(8) To perform all other necessary and incidental functions; and to exercise such additional powers as shall be conferred by the general assembly or by act of congress.

2. The authority is authorized and directed to proceed to carry out its duties, functions and powers in accordance with sections 64.920 to 64.950 as rapidly as may be economically practicable and is vested with all necessary and appropriate powers not inconsistent with the

constitution or the laws of the United States to effectuate the same, except the power to levy taxes or assessments.

3. Any expenditure made by the authority located in a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, that is over five thousand dollars, including professional service contracts, must be competitively bid.

65.030. PROPOSITION SUBMITTED — ELECTION HELD, WHEN — FORM OF BALLOT. — 1. Upon petition of at least **[**one hundred**]** **ten percent of the** voters **at the last general election** of any county of the third or fourth classes praying therefor, which said petition shall be filed in the office of the clerk of the county commission, the county commission of such county shall, by order of record, submit the question of the adoption of township organization form of county government to a vote of the voters of the county. **The total vote for governor at the last general election before the filing of the petition where a governor was elected shall be used to determine the number of voters necessary to sign the petition.** If such petition shall be filed sixty days or more prior to a general election, the proposition shall be submitted at said general election; if filed less than sixty days before such election, then the proposition shall be submitted at the general election next succeeding said general election. The election shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to elections of county officers. The clerk of the county commission shall give notice that a proposition for the adoption of township organization form of county government in the county is to be voted upon by causing a copy of the order of the county commission authorizing such election to be published.

2. The question shall be submitted in substantially the following form:

Shall the township organization form of county government be adopted in ..... county?

3. If a majority of the voters voting upon the question shall vote for the adoption thereof the township organization form of county government shall be declared to have been adopted; provided, that counties adopting township organization shall be subject to and governed by the provisions of the law relating to township organization on and after the last Tuesday in March next succeeding the election at which such township organization was adopted.

65.110. OFFICERS TO BE CHOSEN. — 1. There shall be chosen at the biennial election in each township one trustee, who shall be ex officio treasurer of the township, **[**one township collector,**]** one township clerk, and two members of the township board.

2. Upon the assumption of office of a county assessor elected as provided by section 53.010, RSMo, the township clerk shall cease to perform the duties of ex officio township assessor and shall promptly deliver to the county assessor all books, papers, records, and property pertaining to the office of ex officio township assessor.

3. The treasurer ex officio collector of a county with township organization shall no longer retain such title, and shall instead, assume the office of collector-treasurer, as provided for by section 54.010, on March 1, 2007. On such date, the township collector shall cease to perform the duties of township collector and shall promptly deliver to the collector-treasurer, all books, papers, records, and property pertaining to the office of township collector. The township collector shall continue to perform the same duties and be subject to the same requirements and liabilities until his or her term expires on March 1, 2007. Notwithstanding other provisions of law to the contrary, the collector-treasurer shall obtain and hold the same duties, powers, and obligations previously granted to, and held by, the township collector on and after March 1, 2007.

65.150. ELIGIBILITY FOR OFFICE. — No person shall be eligible to any township office unless he shall be a voter and a resident of such township. **Such person serving as a township officer must remain a resident of the township for the duration of his or her term.**

65.160. OATH — SHALL ASSUME OFFICE, WHEN. — Every person chosen or appointed to the office of township trustee and ex officio treasurer, member of the township board, **[**township collector,**]** or township clerk, before **[**he**] such person** enters on the duties of his **or her** office and within ten days after **[**he**] such person** shall be notified of his **or her** election or appointment, shall take and subscribe, before any officer authorized to administer oaths, such oath or affirmation as is prescribed by law.

65.180. REFUSAL TO SERVE — FORFEITURE. — Any person chosen or appointed to fill any township office, who shall refuse to serve, shall forfeit to the township the sum of **[**five**] one hundred** dollars for the use of the contingent fund, and said forfeiture, if not otherwise paid, shall be collected by any associate circuit judge of the county, as may be provided by law.

65.183. REMOVAL OF TOWNSHIP OFFICERS, PROCEDURE. — Any person serving as a township officer may be removed from the township board by a majority vote of the other board members for failing to attend two or more consecutive meetings of the board.

65.190. FAILURE TO TAKE OATH — FORFEITURE. — If any township officer who is required by law to take the oath of office shall enter upon the duties of his office before he shall have taken such oath, he shall forfeit to the township the sum of **[**twenty**] one hundred** dollars, to be collected and applied as in section 65.180. Township officers shall hold their offices for two years, and until their successors are chosen or appointed and qualified.

65.200. VACANCIES IN OFFICE — HOW FILLED. — Whenever any township shall fail to elect the proper number of officers to which such township may be entitled, or when any person elected or appointed shall fail to qualify, or when any vacancy shall happen in any township office from any cause, it shall be lawful for the township board to **submit recommendations to the county commission to** fill such vacancy by appointment, and the person so appointed shall hold the office and discharge all the duties of the same during such unexpired term, and until his successor is elected or appointed and qualified, and shall be subject to the same penalties as if he had been duly elected; provided, that any vacancy in **an office of** the township **[**board**]** shall be filled by appointment of the county commission.

65.220. RESIGNATIONS, HOW ACCEPTED. — The township board may, at any legally convened meeting, for a good and sufficient cause shown to them, accept the **written, dated, and signed** resignation of any township officer; provided, that in all cases where the action of the township board is required, as provided in section 65.210, a majority of the members concurring therein, shall be taken as the action of the board.

65.230. COMPENSATION OF OFFICERS. — The following township officers shall be entitled to compensation at the following rates for each day necessarily devoted by them to the services of the township in discharging the duties of their respective offices:

(1) The township clerk, as clerk, the township trustee, as trustee, members of the township board, shall each receive **[**for their services six dollars per day**] a maximum amount of fifty dollars per day** for the first meeting each month and **[**two and one-half**] a maximum amount of twenty** dollars for each meeting thereafter during the month**[**, and may receive up to twenty-five dollars per day for the first meeting each month and up to ten dollars for each meeting thereafter during the month. The township clerk shall receive fees for the following, and not per diem: for serving notices of election or appointment upon township officers, as required by law, twenty-five cents each; for filing any instrument of writing, ten cents; for recording any order or instrument of writing, authorized by law, ten cents for every hundred words and figures; for copying and certifying any record in his office, ten cents for every hundred words and figures, to be paid by the person applying for the same**]**; **[**and**]**

(2) The township trustee as ex officio treasurer shall receive a compensation of two percent for receiving and disbursing all moneys coming into his hands **for the first fifty thousand dollars received** as ex officio treasurer when the same shall not exceed the sum of one thousand dollars and one percent of all sums over this amount**; and**

(3) Township officials may receive an hourly wage set by the township board for labor performed for the benefit of the township. Such wage shall not exceed the local prevailing wage limits and shall not include pay received for attending monthly meetings or pay received by the treasurer for performing duties required of his or her office.

65.300. BOARD OF DIRECTORS — MEETINGS. — The township board of directors shall meet **[**at the office of the township clerk**] on a quarterly basis, or more frequently as deemed necessary by the board,** for the purpose of transacting **[**such**] township** business **[**as may be by them deemed necessary, triannually, on the third Wednesday after the first Tuesday in April, the first Tuesday after the first Monday in July, and on the third Monday of November of each year, and at such other times as the interest of the township may require**]**. **The meetings of the township board shall be held at a location within the township that is accessible to the public.**

65.460. TOWNSHIP TRUSTEE, COLLECTOR. — Every person elected or appointed to the office of township trustee and ex officio treasurer, before **[**he**] such person** enters on the duties of his **or her** office, and within ten days after **[**his**] such person's** election or appointment, shall execute and deliver to the township clerk a bond with one or more sureties, to the satisfaction of the township clerk payable to the township board, equal to one-half the largest amount on deposit at any one time during the year preceding his **or her** election or appointment of all the township funds, including school moneys, that may come into his **or her** hands; and every such bond, when deposited with the township clerk as aforesaid, shall constitute a lien upon all the real estate within the county belonging to such trustee and ex officio treasurer at the time of filing thereof, and shall continue to be a lien until its conditions, together with all costs and charges which may accrue by reason of any prosecution thereon, shall be satisfied. **[**The township collector shall before he receives the tax books give bond and security to the state, to the satisfaction of the county commission, in a sum for any one month equal to the average total monthly collection for the same month during the preceding four years, but not to exceed one-half the largest amount collected during any one year preceding his election or appointment, including school taxes. Such bond shall be executed in duplicate; one part thereof shall be deposited and recorded in the office of the clerk of the county commission, and the other part shall be transmitted by the clerk to the state tax commission. The conditions of such bond shall be that he, the said collector, will faithfully and punctually collect and pay over all state, county, township and other revenue, including school taxes, that may become due and collectible during the period for which such collector shall be elected or appointed; and that he will in all things faithfully perform all the duties of the office of township collector according to law; provided, the county commission or township board shall annually examine the collector's or trustee's bond as to form and sufficiency of surety and in case of any doubt shall require additional security.**]**

65.490. TOWNSHIP FUNDS, HOW PAID OUT — SCHOOL DISTRICT FUNDS, DUTIES OF TRUSTEES. — The township trustee and ex officio treasurer shall not pay out any moneys belonging to the township for any purpose whatever, except upon the order of the township board of directors, signed by the chairman of said board and attested by the township clerk; provided, that nothing in this chapter shall be so construed as to change or interfere with any school district, the boundary lines of which are different from that of the municipal township as organized under the provisions of this chapter, nor with the payment of any school moneys upon proper vouchers. **[**He**] The township trustee and ex officio treasurer** shall receive from the **[**township collector and the county collector or treasurer**] collector-treasurer** all road and bridge

and other taxes due the township when collected by such officers, and shall receipt for the same, and shall account therefor in like manner as for other moneys in his **or her** hands belonging to the township.

65.600. COUNTY COLLECTOR AND ASSESSOR — TENURE UPON ADOPTION OF TOWNSHIP ORGANIZATION. — 1. In any county in this state which may hereafter adopt township organization, the person holding the office of the collector of the revenue in such county, at the time in March when township organization becomes effective in such county, shall continue to hold his **or her** office and exercise all the functions and receive all the fees and emoluments thereof until the time at which his **or her** term of office would have expired had such county not adopted township organization, and, except as herein otherwise provided, **[**he**] the collector** shall perform the same duties and be subject to the same requirements and liabilities as in counties not under township organization.

2. The county assessor shall assess the property of the various townships in such county and arrange **[**his**] the county assessor's** books and lists in a manner so that it can be determined which township is entitled to the taxes assessed against any property.

3. The county clerk of such county shall **[**make out**] submit**, for the use of such county collector, lists of the property assessed in each township the same as **[**he**] the county clerk** is required to **[**make out**] submit** for the use of township collectors.

4. The collector of the revenue in such county shall pay over to the several township trustees of such county after deducting his **or her** commission, all township taxes and funds of every kind collected by **[**him**] the collector** and belonging respectively to the several townships in such county, as required by section 139.430, RSMo, in the case of township collectors, and for **[**his**] the collector's** failure to do so **[**he**] the collector** shall be subject to the same liability as provided by section 139.430, RSMo, in the case of township collectors.

5. The first township collectors in such county shall be elected at the township election held in March next preceding the time at which the term of office of the collector of the revenue in such county shall expire and their terms of office shall begin at the expiration of the term of office of such collector of the revenue, and they shall hold their offices until the next township election in such county. **The provisions of this section shall be effective prior to August 28, 2005.**

65.610. ABOLITION OF TOWNSHIP ORGANIZATION — PROCEDURE. — 1. Upon the petition of at least **[**one hundred qualified electors**] ten percent of voters at the last general election** of any county having heretofore adopted township organization, praying therefor, the county commission shall submit the question of the abolition of township organization to the voters of the county at a general or special election. **The total vote for governor at the last general election before the filing of the petition where a governor was elected shall be used to determine the number of voters necessary to sign the petition.** If the petition is filed six months or more prior to a general election, the proposition shall be submitted at a special election to be ordered by the county commission within sixty days after the petition is filed; if the petition is filed less than six months before a general election, then the proposition shall be submitted at the general election next succeeding the filing of the petition. The election shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to elections of county officers. The clerk of the county commission shall give notice that a proposition for the abolition of township organization form of county government in the county is to be voted upon by causing a copy of the order of the county commission authorizing such election to be published at least once each week for three successive weeks, the last insertion to be not more than one week prior to the election, in some newspaper published in the county where the election is to be held, if there is a newspaper published in the county and, if not, by posting printed or written handbills in at least two public places in each election precinct in the

county at least twenty-one days prior to the date of election. The clerk of the county commission shall provide the ballot which shall be printed and in substantially the following form:

OFFICIAL BALLOT

(Check the one for which you wish to vote)

Shall township organization form of county government be abolished in .... County? YES .... NO ....

If a majority of the electors voting upon the proposition shall vote for the abolition thereof the township organization form of county government shall be declared to have been abolished; and township organization shall cease in said county; and except as provided in section 65.620 all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county.

2. No election or any proposal for either the adoption of township organization or for the abolition of township organization in any county shall be held within two years after an election is held under this section.

67.055. MONEYS COLLECTED FOR ADDITIONAL COSTS AND EXPENSES, REVIEW BY COUNTY BUDGET OFFICER. — Any moneys received or collected to fund additional costs and expenses incurred by any county office shall be reviewed by the county budget officer when he or she is formulating the annual budget and shall be used solely for the purposes provided for in statute for each fund.

67.459. APPORTIONMENT OF IMPROVEMENT COSTS — GOVERNING BODY TO ESTABLISH CLASSIFICATIONS. — The portion of the cost of any improvement to be assessed against the real property in a neighborhood improvement district shall be apportioned against such property in accordance with the benefits accruing thereto by reasons of such improvement. The cost may be assessed equally per front foot or per square foot against property within the district or by any other reasonable assessment plan determined by the governing body of the city or county which results in imposing substantially equal burdens or share of the cost upon property similarly benefited **and which may include, in the case of condominium or equitable owner association ownership, a determination that all units within the condominium or equitable owner association are equally benefited**. The governing body of the city or county may from time to time determine and establish by ordinance or resolution reasonable general classifications and formulae for the methods of assessing the benefits.

67.469. ASSESSMENT TREATED AS TAX LIEN, PAYABLE UPON FORECLOSURE. — A special assessment authorized under the provisions of sections 67.453 to 67.475 shall be a lien, from the date of the assessment, on the property against which it is assessed on behalf of the city or county assessing the same to the same extent as a tax upon real property. **The lien may be foreclosed in the same manner as a tax upon real property by land tax sale pursuant to chapter 140, RSMo, or by judicial foreclosure proceeding, at the option of the governing body.** Upon the foreclosure of any such lien, **whether by land tax sale or by judicial foreclosure proceeding,** the entire remaining assessment **[**shall**] may** become due and payable and **[**shall**] may** be recoverable in such foreclosure proceeding **at the option of the governing body**.

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county or **(1)** a county of the third classification with a population of

[(1)**]** more than seven thousand but less than seven thousand four hundred inhabitants; (2) or a third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand; (3) or a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand**; (4)** or any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand**; (5) or any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants** may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be 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 or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room 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 the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] YES [ ] NO

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1062. DEFINITIONS. — As used in sections 67.1062 to 67.1071, unless the context clearly requires otherwise, the following words and phrases mean:

(1) "Agency", an entity which provides **[**housing-related assistance**] any service related** to homeless persons or the repair or replacement of housing structures which are in violation of the county housing code, and shall include not-for-profit housing partnerships as defined in 24 CFR Part 92 or successor regulations;

(2) "City", any city not within a county;

(3) "County", a county of the first class having a charter form of government;

(4) "Designated authority", the board, commission, agency, or other body designated under the provisions of section 67.1065 as the authority to administer the allocation and distribution of funds to agencies;

(5) "Homeless", an involuntary state characterized by a lack of habitable housing or shelter.

67.1067. AGENCIES APPLYING FOR FUNDS, INFORMATION REQUIRED. — 1. Any agency providing **[**assistance**] services related** to homeless persons may apply to the designated authority for funds to be used to provide **[**housing**] such services** for the homeless. All applications shall include, but not be limited to, the following:

(1) **[**Evidence that the agency is incorporated or authorized to do business in this state as a nonprofit corporation;

(2)**]** A list of the directors of the **[**corporation**] applicant, if any**, and a list of the trustees of the agency if different;

[(3)**] (2)** The proposed budget of the agency for the following calendar year, or other period for which funding is sought;

[(4)**] (3)** A summary of the services proposed to be offered in the following calendar year, or other period for which funding is sought;

[(5)**] (4)** An estimate of the number of persons to be served during the following calendar year, or other period for which funding is sought; and

[(6)**] (5)** Any other information deemed relevant to the application by the designated authority.

2. After review of an application for funds from an agency that meets the criteria set forth in section 67.1069, the designated authority shall notify the agency in writing whether it is eligible to receive funds and, if the agency is eligible, specify the amount available for that agency from the fund established pursuant to sections 67.1063 and 67.1064.

67.1069. REQUIREMENTS FOR AGENCIES TO BE ELIGIBLE FOR FUNDS. — To qualify for funds allocated and distributed pursuant to section 67.1067, an agency **[**shall meet**] may be any entity which provides services related to homeless persons or which meets** all of the following requirements:

(1) **[**Be incorporated or authorized to do business in the state as a nonprofit corporation;

(2)**]** Have trustees who represent the racial, ethnic and socioeconomic diversity of the community to be served, at least one of whom must possess experience in confronting or mitigating the problems of homeless;

[(3)**] (2)** Receive at least twenty-five percent of its funds from sources other than funds distributed pursuant to section 67.1067. These other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal service; and

[(4)**] (3)** Require persons employed by or volunteering services to the agency to maintain the confidentiality of any information that would identify individuals served by the agency.

67.1070. ELIGIBLE AGENCIES. — Funds shall be allocated to:

(1) Agencies offering or proposing to offer the broadest range of housing-related services to persons in the community served, including:

(a) Emergency short-term and long-term shelter for the homeless;

(b) Prevention of residential foreclosures and evictions;

(c) Coordination of existing community services; and

(d) Projects to encourage self-sufficiency of participants and facilitate transition from dependency on subsidized housing;

(2) Other **[**agencies offering or proposing to offer services specifically to homeless persons**] entities essential for carrying out the purposes of this section**.

67.1159. LIEN FOR UNPAID TAXES — RELEASE OF LIEN, WHEN — FEE FOR RECORDING OF LIEN — NOTIFICATION OF SALE OF PROPERTY, WHEN — CIVIL ACTION AUTHORIZED, WHEN. — 1. In any case in which any tax, interest or penalty imposed under sections 67.1150 to 67.1158 is not paid when due, the authority or its designated agent may file for record in the real estate records of the recorder's office of the city or the county where the business giving rise to the tax, interest, or penalty is located, or in which the person owing the tax, interest, or penalty resides, a notice of lien specifying the amount of tax, interest, or penalty due and the name of the person liable for the same. From the time of filing any such notice, the amount of the tax specified in such notice shall have the force and effect

of a lien against the real and personal property of the business of such person or the facility giving rise to the tax for the amount specified in such notice.

2. A lien created under subsection 1 of this section may be released:

(1) By filing for record in the office of the recorder where the lien was originally filed a release of the lien executed by a duly authorized agent of the authority upon payment of the tax, interest, and penalty due; or

(2) Upon receipt by the authority of sufficient security to secure payment thereof; or

(3) By final judgment holding such lien to have been erroneously imposed.

3. Each recorder shall receive the standard statutory fee for the recording of each notice of lien and for each release of lien filed for record. The authority is authorized to collect an additional penalty from each taxpayer equal to the cost of filing a notice of lien or release with respect to such taxpayer.

4. Any person operating or managing a business or facility who owes any tax, penalty, or interest, or is required to file any report with the authority, shall notify the authority in writing at least ten days prior to any sale of the entire business or facility, or the entire assets or property of the business or facility, or a major part thereof. Such notice shall include the name of the business or facility, the name of the owner of the business or facility, the name of the person collecting the tax at the time of the notice, the name of the purchaser, and the intended date of purchase. A purchaser of such business, facility, assets, or property who takes with notice of any delinquent tax or with notice of noncompliance with this section takes subject to any tax, penalty, or interest owed by the seller.

5. The authority shall have the power to bring a civil action in any court of competent jurisdiction to enjoin the operation of the business or facility of any person or the successor-in-interest to any person operating or managing the same business or facility, which business or facility gave rise to any tax, penalty, or interest which is unpaid or to enjoin the operating or managing of any such business or facility whose owners or successors-in-interest are operating or managing in violation of the provisions of sections 67.1150 to 67.1159. The courts shall expedite the hearing on the merits of any such action and shall not require the authority to post a bond pending such hearing.

67.1305. RETAIL SALES TAX MAY BE IMPOSED IN LIEU OF CERTAIN LOCAL ECONOMIC DEVELOPMENT SALES TAX — BALLOT LANGUAGE — COLLECTION AND DISTRIBUTION OF MONEYS — TRUST FUND AND BOARD TO BE ESTABLISHED. — 1. As used in this section, the term "city" shall mean any incorporated city, town, or village.

2. In lieu of the sales taxes authorized under sections 67.1300 and 67.1303, the governing body of any city or county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at any citywide, county, or state general, primary, or special election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The tax authorized in this section shall not be imposed by any city or county that has imposed a tax under section 67.1300 or 67.1303 unless the tax imposed under those sections has expired or been repealed.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

"Shall ..... (insert the name of the city or county) impose a sales tax at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question, provided that no proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last proposal.

4. All sales taxes collected by the director of revenue under this section on behalf of any county or 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, to be known as the "Local Option Economic Development Sales Tax Trust Fund".

5. The moneys in the local option economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and which was collected in each city or county imposing a sales tax under this section, and the records shall be open to the inspection of officers of the city or county and the public.

6. 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 city or county which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate city officer in the case of a city tax, and all expenditures of funds arising from the local option economic development sales tax trust fund shall be in accordance with this section.

7. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities and counties.

8. If any county or city abolishes the tax, the city or county 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 city or county, the director of revenue shall remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

9. Except as modified by this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

10. (1) No revenue generated by the tax authorized in this section shall be used for any retail development project, except for the redevelopment of downtown areas and historic districts. Not more than twenty-five percent of the revenue generated may be used annually for administrative purposes, including staff and facility costs.

(2) At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

(a) Acquisition of land;

(b) Installation of infrastructure for industrial or business parks;

(c) Improvement of water and wastewater treatment capacity;

(d) Extension of streets;

(e) Public facilities directly related to economic development and job creation; and

(f) Providing matching dollars for state or federal grants relating to such long-term projects;

(3) The remaining revenue generated by the tax authorized in this section may be used for, but shall not be limited to, the following:

(a) Marketing;

(b) Providing grants and loans to companies for job training, equipment acquisition, site development, and infrastructure;

(c) Training programs to prepare workers for advanced technologies and high skill jobs;

(d) Legal and accounting expenses directly associated with the economic development planning and preparation process; and

(e) Developing value-added and export opportunities for Missouri agricultural products.

11. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the 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 or county funds.

12. (1) Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The volunteer board shall receive no compensation or operating budget.

(2) The economic development tax board established by a city shall consist of five members, to be appointed as follows:

(a) One member shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such member shall be appointed in any manner agreed upon by the affected districts;

(b) Three members shall be appointed by the chief elected officer of the city with the consent of the majority of the governing body of the city; and

(c) One member shall be appointed by the governing body of the county in which the city is located.

(3) The economic development tax board established by a county shall consist of seven members, to be appointed as follows:

(a) One member shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such member shall be appointed in any manner agreed upon by the affected districts;

(b) Four members shall be appointed by the governing body of the county; and

(c) Two members from the cities, towns, or villages within the county appointed in any manner agreed upon by the chief elected officers of the cities, towns or villages.

Of the members initially appointed, three shall be designated to serve for terms of two years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter the members appointed 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.

13. The board, subject to approval of the governing body of the city or county, shall consider economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, 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 concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area. The governing body of the city or county shall have the final determination on use and expenditure of any funds received from the tax imposed under this section.

14. The board may consider and recommend using funds received from the tax imposed under this section for plans, projects, or area designations outside the boundaries of the city or county imposing the tax if and only if:

(1) The city or county imposing the tax or the state receives significant economic benefit from the plan, project, or area designation; and

(2) The board establishes an agreement with the governing bodies of all cities and counties in which the plan, project, or area designation is located detailing the authority and responsibilities of each governing body with regard to the plan, project, or area designation.

15. Notwithstanding any other provision of law to the contrary, the local option economic development sales tax imposed under this section when imposed within a special taxing district, including but not limited to a tax increment financing district, neighborhood improvement district, or community improvement district, shall be excluded from the calculation of revenues available to such districts, and no revenues from any sales tax imposed under this section shall be used for the purposes of any such district unless recommended by the economic development tax board established under this section and approved by the governing body imposing the tax.

16. The board and the governing body of the city or county imposing the tax shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section and shall make such report available to the public.

17. Not later than the first day of March each year the department of economic development shall submit to the joint committee on economic development a report which shall include the following information for each project using the tax authorized under this section:

(1) A statement of its primary economic development goals;

(2) A statement of the total economic development sales tax revenues received during the immediately preceding calendar year; and

(3) A statement of total expenditures during the preceding calendar year in each of the following categories:

(a) Infrastructure improvements;

(b) Land or buildings, or both;

(c) Machinery and equipment;

(d) Job training investments;

(e) Direct business incentives;

(f) Marketing;

(g) Administration and legal expenses; and

(h) Other expenditures.

18. The governing body of any city or county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city or county. The ballot of submission shall be in substantially the following form:

"Shall ..... (insert the name of the city or county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was

approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

19. If any provision of this section or section 67.1303 or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section or section 67.1303 which can be given effect without the invalid provision or application, and to this end the provisions of this section and section 67.1303 are declared severable.

67.1350. ANNEXATION BY CERTAIN CITIES TO PROMOTE ECONOMIC DEVELOPMENT (WARRENSBURG). — Notwithstanding the provisions of any other law to the contrary, the governing body of any third class city with a population of at least fifteen thousand but not more than seventeen thousand inhabitants which is the county seat of a county of the **second or** fourth classification which has a state university located in such city may annex areas along a road or highway up to two **and one-half** miles from the existing boundaries of the city for the purpose of promoting economic development through the refurbishing of existing structures and the construction and maintenance of infrastructure and property for the enhancement of community development of an existing airport.

67.1401. DEFINITIONS. — 1. Sections 67.1401 to 67.1571 shall be known and may be cited as the "Community Improvement District Act".

2. For the purposes of sections 67.1401 to 67.1571, the following words and terms mean:

(1) "Approval" or "approve", for purposes of elections pursuant to sections 67.1401 to 67.1571, a simple majority of those qualified voters voting in the election;

(2) "Assessed value", the assessed value of real property as reflected on the tax records of the county clerk of the county in which the property is located, or the collector of revenue if the property is located in a city not within a county, as of the last completed assessment;

(3) "Blighted area", an area which:

(a) By reason of the predominance of defective or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use; or

(b) Has been declared blighted or found to be a blighted area pursuant to Missouri law including, but not limited to, chapter 353, RSMo, sections 99.800 to 99.865, RSMo, or sections 99.300 to 99.715, RSMo;

(4) "Board", if the district is a political subdivision, the board of directors of the district, or if the district is a not-for-profit corporation, the board of directors of such corporation;

(5) "Director of revenue", the director of the department of revenue of the state of Missouri;

(6) "District", a community improvement district, established pursuant to sections 67.1401 to 67.1571;

(7) "Election authority", the election authority having jurisdiction over the area in which the boundaries of the district are located pursuant to chapter 115, RSMo;

(8) "Municipal clerk", the clerk of the municipality;

(9) "Municipality", any city, village, incorporated town, or county of this state, or in any unincorporated area that is located in any county with a charter form of government and with more than one million inhabitants;

(10) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a district to carry out any of its powers, duties or purposes or to refund outstanding obligations;

(11) "Owner", for real property, the individual or individuals or entity or entities who own **[**the**] a** fee **[**of**] interest in** real property **that is located within the district** or their legally authorized representative; for business organizations and other entities, the owner shall be deemed to be the individual which is legally authorized to represent the entity in regard to the district;

(12) "Per capita", one head count applied to each individual, entity or group of individuals or entities having fee ownership of real property within the district whether such individual, entity or group owns one or more parcels of real property in the district as joint tenants, tenants in common, tenants by the entirety or tenants in partnership;

(13) "Petition", a petition to establish a district as it may be amended in accordance with the requirements of section 67.1421;

(14) "Qualified voters",

(a) For purposes of elections for approval of real property taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property which is to be subject to such real property taxes and is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, as of the thirtieth day prior to the date of the applicable election;

(b) For purposes of elections for approval of business license taxes or sales taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property located within the district per the tax records for real property of the county clerk as of the thirtieth day before the date of the applicable election; and

(c) For purposes of the election of directors of the board, registered voters and owners of real property which is not exempt from assessment or levy of taxes by the district and which is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, of the thirtieth day prior to the date of the applicable election; and

(15) "Registered voters", persons who reside within the district and who are qualified and registered to vote pursuant to chapter 115, RSMo, pursuant to the records of the election authority as of the thirtieth day prior to the date of the applicable election.

67.1451. BOARD OF DIRECTORS, ELECTION, QUALIFICATIONS, APPOINTMENT, TERMS, REMOVAL, ACTIONS. — 1. If a district is a political subdivision, the election and qualifications of members to the district's board of directors shall be in accordance with this section. If a district is a not-for-profit corporation, the election and qualification of members to its board of directors shall be in accordance with chapter 355, RSMo.

2. The district shall be governed by a board consisting of at least five but not more than thirty directors. Each director shall, during his or her entire term, be:

(1) At least eighteen years of age; and

(2) Be either:

(a) An owner, as defined in section 67.1401, of real property or of a business operating within the district; or

(b) **If in a home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants, a legally authorized representative of an owner of real property located within the district. If there are less than five owners of real property located within a district, the board may be comprised of up to five legally authorized representatives of any of the owners of real property located within the district; or**

(c) A registered voter residing within the district; and

(3) Any other qualifications set forth in the petition establishing the district.

3. If the district is a political subdivision, the board shall be elected or appointed, as provided in the petition.

4. If the board is to be elected, the procedure for election shall be as follows:

(1) The municipal clerk shall specify a date on which the election shall occur which date shall be a Tuesday and shall not be earlier than the tenth Tuesday, and shall not be later than the fifteenth Tuesday, after the effective date of the ordinance adopted to establish the district;

(2) The election shall be conducted in the same manner as provided for in section 67.1551, provided that the published notice of the election shall contain the information required by section 67.1551 for published notices, except that it shall state that the purpose of the election is for the election of directors, in lieu of the information related to taxes;

(3) Candidates shall pay the sum of five dollars as a filing fee and shall file not later than the second Tuesday after the effective date of the ordinance establishing the district with the municipal clerk a statement under oath that he or she possesses all of the qualifications set out in this section for a director. Thereafter, such candidate shall have his or her name placed on the ballot as a candidate for director;

(4) The director or directors to be elected shall be elected at large. The person receiving the most votes shall be elected to the position having the longest term; the person receiving the second highest votes shall be elected to the position having the next longest term and so forth. For any district formed prior to August 28, 2003, of the initial directors, one-half shall serve for a two-year term, one-half shall serve for a four-year term and if an odd number of directors are elected, the director receiving the least number of votes shall serve for a two-year term, until such director's successor is elected. For any district formed on or after August 28, 2003, for the initial directors, one-half shall serve for a two-year term, and one-half shall serve for the term specified by the district pursuant to subdivision (5) of this subsection, and if an odd number of directors are elected, the director receiving the least number of votes shall serve for a two-year term, until such director's successor is elected;

(5) Successor directors shall be elected in the same manner as the initial directors. The date of the election of successor directors shall be specified by the municipal clerk which date shall be a Tuesday and shall not be later than the date of the expiration of the stated term of the expiring director. Each successor director shall serve a term for the length specified prior to the election by the district, which term shall be at least three years and not more than four years, and shall continue until such director's successor is elected. In the event of a vacancy on the board of directors, the remaining directors shall elect an interim director to fill the vacancy for the unexpired term.

5. If the petition provides that the board is to be appointed by the municipality, such appointments shall be made by the chief elected officer of the municipality with the consent of the governing body of the municipality. For any district formed prior to August 28, 2003, of the initial appointed directors, one-half of the directors shall be appointed to serve for a two-year term and the remaining one-half shall be appointed to serve for a four-year term until such director's successor is appointed; provided that, if there is an odd number of directors, the last person appointed shall serve a two-year term. For any district formed on or after August 28, 2003, of the initial appointed directors, one-half shall be appointed to serve for a two-year term, and one-half shall be appointed to serve for the term specified by the district for successor directors pursuant to this subsection, and if an odd number of directors are appointed, the last person appointed shall serve for a two-year term; provided that each director shall serve until such director's successor is appointed. Successor directors shall be appointed in the same manner as the initial directors and shall serve for a term of years specified by the district prior to the appointment, which term shall be at least three years and not more than four years.

6. If the petition states the names of the initial directors, those directors shall serve for the terms specified in the petition and successor directors shall be determined either by the above-listed election process or appointment process as provided in the petition.

7. Any director may be removed for cause by a two-thirds affirmative vote of the directors of the board. Written notice of the proposed removal shall be given to all directors prior to action thereon.

8. The board is authorized to act on behalf of the district, subject to approval of qualified voters as required in this section; except that, all official acts of the board shall be by written resolution approved by the board.

67.1754. SALES TAX, HOW ALLOCATED. — The sales tax authorized in sections 67.1712 to 67.1721 shall be collected and allocated as follows:

(1) Fifty percent of the sales taxes collected from each county shall be deposited in the metropolitan park and recreational fund to be administered by the board of directors of the district to pay costs associated with the establishment, administration, operation and maintenance of public recreational facilities, parks, and public recreational grounds associated with the district. Costs for office administration beginning in the second fiscal year of district operations may be up to but shall not exceed fifteen percent of the amount deposited pursuant to this subdivision;

(2) Fifty percent of the sales taxes collected from each county shall be returned to the source county for park purposes, except that forty percent of such fifty percent amount shall be reserved for distribution to municipalities within the county in the form of grant revenue-sharing funds. Each county in the district shall establish its own process for awarding the grant proceeds to its municipalities for park purposes provided the purposes of such grants are consistent with the purpose of the district. In the case of a county of the first classification with a charter form of government having a population of at least nine hundred thousand inhabitants, such grant proceeds shall be awarded to municipalities by a municipal grant commission as described in section 67.1757**; in such county, notwithstanding other provisions to the contrary, the grant proceeds may be used to fund any recreation program or park improvement serving municipal residents and for such other purposes as set forth in section 67.1757**.

67.1775. AUTHORIZES LOCAL SALES TAX IN ALL COUNTIES AND ST. LOUIS CITY TO PROVIDE SERVICES FOR CHILDREN — ESTABLISHES FUND. — 1. The governing body of a city not within a county, or any county of this state may, after voter approval **[**pursuant to**] under** this section, levy a sales tax not to exceed one-quarter of a cent in the county **or city** for the purpose of providing services described in section 210.861, RSMo, including counseling, family support, and temporary residential services to persons nineteen years of age or less. The question shall be submitted to the qualified voters of the county **or city** at a county **or city** or state general, primary or special election upon the motion of the governing body of the county **or city** or upon the petition of eight percent of the qualified voters of the county **or city** determined on the basis of the number of votes cast for governor in such county at the last gubernatorial election held prior to the filing of the petition. The election officials of the county **or city** shall give legal notice as provided in chapter 115, RSMo. The question shall be submitted in substantially the following form:

Shall ..... County **or City, solely for the purpose of establishing a community children's services fund for the purpose of providing services to protect the well-being and safety of children and youth nineteen years of age or less and to strengthen families,** be authorized to levy a sales tax of ..... (not to exceed one-quarter of a cent) in the **city or** county **[**for the purpose of establishing a community children's services fund for the purpose of providing services to protect the well-being and safety of children and youth nineteen years of age or less and to strengthen families**]**?

[ ] YES [ ] NO

[If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall be levied and collected as otherwise provided by law. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not be levied unless and until the question is again submitted to

the qualified voters of the county and a majority of such voters are in favor of such a tax, and not otherwise.**]**

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second calendar quarter after the director receives notification of the local sales tax. If a question receives less than the required majority, then the governing authority of the city or county shall have no power to impose the sales tax unless and until the governing authority of the city or county has submitted another question to authorize the imposition of the sales tax authorized by this section and such question is approved by the required majority of the qualified voters voting thereon. However, in no event shall a question under this section be submitted to the voters sooner than twelve months from the date of the last question under this section.

2. **After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed under this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue.**

3. All sales taxes collected by the director of revenue under this section on behalf of any city or county, less one percent for the 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 with the state treasurer in a special fund, which is hereby created, to be known as the "Community Children's Services Fund". The moneys in the city or county community children's services 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 fund which was collected in each city or county imposing a sales tax under this section, and the records shall be open to the inspection of officers of each city or county and the general public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the fund during the preceding month by distributing to the city or county treasurer, or such other officer as may be designated by a city or county ordinance or order, of each city or county imposing the tax authorized by this section, the sum, as certified by the director of revenue, due the city or county.

4. The director of revenue may authorize the state treasurer to make refunds from the amounts in the fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. Each city or county shall notify the director of revenue at least ninety days prior to the effective date of the expiration of the sales tax authorized by this section and the director of revenue may order retention in the 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 such tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the date of expiration of the tax authorized by this section in such city or county, the director of revenue shall remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. All revenues generated by the tax prescribed in this section shall be deposited in the county treasury **or, in a city not within a county, to the board established by law to administer such fund** to the credit of a special "Community Children's Services Fund" **to accomplish the purposes set out herein and in section 210.861, RSMo, and shall be used for no other purpose**. Such fund shall be administered by a board of directors, established **[**pursuant to**]** **under** section 210.861, RSMo.

67.1809. LICENSURE, SUPERVISION, AND REGULATION OF PERSONS WHO ENGAGE IN THE BUSINESS OF TRANSPORTING PASSENGERS IN COMMERCE. — 1. The regional taxicab commission established under section 67.1804 may license, supervise, and regulate any person who engages in the business of transporting passengers in commerce, wholly within the regional taxicab district established in section 67.1802, in any motor vehicle designed or used to transport not more than eight passengers, including the driver. The powers granted to the regional taxicab commission under this section shall apply to the motor vehicles described in this subsection and to the persons owning or operating those vehicles:

(1) Whether or not the vehicles are equipped with a taximeter or use a taximeter; and

(2) Whether the vehicles are operated by a for-hire motor carrier of passengers or by a private motor carrier of passengers not for hire or compensation.

2. This section shall apply, notwithstanding any provisions of this chapter or of subsection 2 of section 390.126, RSMo, to the contrary, except that the vehicles described in subsection 1 of this section, and the operators of such vehicles, shall be licensed, supervised, and regulated by the state highways and transportation commission, as provided under section 226.008, RSMo, instead of the regional taxicab commission, whenever:

(1) Such motor vehicles transport passengers within the district in interstate commerce, and those interstate operations are subject to the powers of the state highways and transportation commission under section 226.008, RSMo;

(2) Such motor vehicles are operated exclusively by a not-for-profit corporation or governmental entity, whose passenger transportation within the regional taxicab district is subsidized, wholly or in part, with public transit funding provided by the state highways and transportation commission, the Federal Transit Administration, or both;

(3) Such vehicles transport one or more passengers on the public highways in a continuous journey from a place of origin within the regional taxicab district to a destination outside the district, or from a place of origin outside the district to a destination within the district, either with or without a return trip to the point of origin. Such continuous transportation of passengers between points within and without the district is subject to regulation by the state highways and transportation commission, even if the journey includes temporary stops at one or more intermediate destinations within the boundaries of the district.

3. The provisions of subdivision (3) of subsection 2 of this section shall not limit the powers of the regional taxicab commission under this section to license, supervise, and regulate the transportation of any passenger whose journey by motor vehicle takes place wholly within the regional taxicab district, even if transported on the same vehicle with other passengers whose transportation, both within and without the boundaries of the district, is subject to the exclusive powers of the state highways and transportation commission. A motor carrier or driver who transports passengers subject to the powers of the regional taxicab commission, under subsection 1 of this section, on the same vehicle with passengers whose transportation is subject to the powers of the state highways and transportation commission, under subsection 2 of this section, shall comply with all applicable requirements of the regional taxicab commission and with all applicable requirements of the state highways and transportation commission.

4. No provision within this chapter shall be interpreted or construed as limiting the powers of the state highways and transportation commission and its enforcement personnel, the state highway patrol and its officers and personnel, or any other law enforcement officers or peace officers to enforce any safety requirements or hazardous materials regulations made applicable by law to the motor vehicles, drivers, or persons that own or operate any motor vehicles described in this section.

5. Every individual person, partnership, or corporation subject to licensing, regulation, and supervision by the regional taxicab commission under this section, with reference to any transportation of passengers by a motor vehicle previously authorized by a certificate or permit issued by the state highways and transportation commission under sections 390.051 or 390.061, RSMo, which certificate or permit was in active status and not suspended or revoked on August 27, 2005, according to the records of the state highways and transportation commission, is hereby deemed to be licensed, permitted, and authorized by the regional taxicab commission, and the vehicles and drivers used by such motor carriers are hereby deemed to be licensed, permitted, and authorized by the regional taxicab commission to operate and engage in the transportation of passengers within the regional taxicab district, to the same extent as they formerly were licensed, permitted, and authorized by the highways and transportation commission on August 27, 2005. Such motor carriers, drivers, and vehicles shall be exempted from applying for any license, certificate, permit, or other credential issued or required by the regional taxicab commission under sections 67.1800 to 67.1822, except that the regional taxicab commission may, after December 31, 2005, require such motor carriers and drivers to apply and pay the regular fees for annual renewals of such licenses, permits, certificates, or other credentials under uniform requirements applicable to all motor carriers, vehicles, and drivers operating within the regional taxicab district.

67.1850. GEOGRAPHICAL INFORMATION SYSTEM MAY BE CREATED, PURPOSE, OPEN RECORDS POLICY, FEES FOR INFORMATION, LICENSING, LIABILITY. — 1. As used in this section, the following terms mean:

(1) "Community", any municipality or county as defined in this section;

(2) "County", any county **[**of the first classification without a charter**]** form of government;

(3) "Geographical information system", a computerized, spatial coordinate mapping and relational database technology which:

(a) Captures, assembles, stores, converts, manages, analyzes, amalgamates and records, in the digital mode, all kinds and types of information and data;

(b) Transforms such information and data into intelligence and subsequently retrieves, presents and distributes that intelligence to a user for use in making the intelligent decisions necessary for sound management;

(4) "Municipality", any city **[**with a population of at least sixty thousand inhabitants and**]** located in **[**a**] any** county **[**of the first classification without a charter form of government**]**.

2. The development of geographical information systems has not been undertaken in any large-scale and useful way by private enterprise. The use of modern technology can enhance the planning and decision-making processes of communities. The development of geographical information systems is a time-consuming and expensive activity. In the interest of maintaining community governments open and accessible to the public, information gathered by communities for use in a geographical information system, unless properly made a closed record, should be available to the public. However, access to the information in a way by which a person could render the investment of the public in a geographical information system a special benefit to that person, and not to the public, should not be permitted.

3. Any community as defined in this section may create a geographical information system for the community. The scope of the geographical information system shall be determined by the governing body of the community. The method of creation, maintenance, use and

distribution of the geographical information system shall be determined by the governing body of the community. A community shall not mandate the use of this system or allocate the costs of the system to nonusers.

4. The information collected or assimilated by a community for use in a geographical information system shall not be withheld from the public, unless otherwise properly made a closed record of the community as provided by section 610.021, RSMo. The information collected or assimilated by a community for use in a geographical information system need not be disclosed in a form which may be read or manipulated by computer, absent a license agreement between the community and the person requesting the information.

5. Information collected or assimilated by a community for use in a geographical information system and disclosed in any form, other than in a form which may be read or manipulated by computer, shall be provided for a reasonable fee, as established by section 610.026, RSMo. A community maintaining a geographical information system shall make maps and other products of the system available to the public. The cost of the map or other product shall not exceed a reasonable fee representing the cost to the community of time, equipment and personnel in the production of the map or other product. A community may license the use of a geographical information system. The total cost of licensing a geographical information system may not exceed the cost, as established by section 610.026, RSMo, of the:

(1) Cost to the community of time, equipment and personnel in the production of the information in a geographical information system or the production of the geographical information system; and

(2) Cost to the community of the creation, purchase, or other acquisition of the information in a geographical information system or of the geographical information system.

6. The provisions of this section shall not hinder the daily or routine collection of data from the geographical information system by real estate brokers and agents, title collectors, developers, surveyors, utility companies, banks, news media or mortgage companies, nor shall the provisions allow for the charging of fees for the collection of such data exceeding that allowed pursuant to section 610.026, RSMo. The provisions of this section, however, shall allow a community maintaining a geographical information system to license and establish costs for the use of the system's computer program and computer software**, and may also establish costs for the use of computer programs and computer software that provide access to information aggregated with geographic information system information**.

7. A community distributing information used in a geographical information system or distributing a geographical information system shall not be liable for any damages which may arise from any error which may exist in the information or the geographical information system.

67.2555. COMPETITIVE BIDS REQUIRED, WHEN (JACKSON COUNTY). — Any expenditure of more than five thousand dollars made by the county executive of a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants must be competitively bid.

71.012. ANNEXATION PROCEDURE, HEARING, EXCEPTIONS (PERRY COUNTY, RANDOLPH COUNTY) — CONTIGUOUS AND COMPACT DEFINED — COMMON INTEREST COMMUNITY, COOPERATIVE AND PLANNED COMMUNITY, DEFINED — OBJECTION, PROCEDURE. — 1. Notwithstanding the provisions of sections 71.015 and 71.860 to 71.920, the governing body of any city, town or village may annex unincorporated areas which are contiguous and compact to the existing corporate limits of the city, town or village pursuant to this section. The term "contiguous and compact" does not include a situation whereby the unincorporated area proposed to be annexed is contiguous to the annexing city, town or village only by a railroad line, trail, pipeline or other strip of real property less than one-quarter mile in width within the city, town or village so that the boundaries of the city, town or village after annexation would leave unincorporated areas between the annexed area and the prior boundaries

of the city, town or village connected only by such railroad line, trail, pipeline or other such strip of real property. The term "contiguous and compact" does not prohibit voluntary annexations pursuant to this section merely because such voluntary annexation would create an island of unincorporated area within the city, town or village, so long as the owners of the unincorporated island were also given the opportunity to voluntarily annex into the city, town or village. Notwithstanding the provisions of this section, the governing body of any city, town or village in any county of the third classification which borders a county of the fourth classification, a county of the second classification and Mississippi River may annex areas along a road or highway up to two miles from existing boundaries of the city, town or village or the governing body in any city, town or village in any county of the third classification without a township form of government with a population of at least twenty-four thousand inhabitants but not more than thirty thousand inhabitants and such county contains a state correctional center may voluntarily annex such correctional center pursuant to the provisions of this section if the correctional center is along a road or highway within two miles from the existing boundaries of the city, town or village.

2. (1) When a verified petition, requesting annexation and signed by the owners of all fee interests of record in all tracts of real property located within the area proposed to be annexed, or a request for annexation signed under the authority of the governing body of any common interest community and approved by a majority vote of unit owners located within the area proposed to be annexed is presented to the governing body of the city, town or village, the governing body shall hold a public hearing concerning the matter not less than fourteen nor more than sixty days after the petition is received, and the hearing shall be held not less than seven days after notice of the hearing is published in a newspaper of general circulation qualified to publish legal matters and located within the boundary of the petitioned city, town or village. If no such newspaper exists within the boundary of such city, town or village, then the notice shall be published in the qualified newspaper nearest the petitioned city, town or village. For the purposes of this subdivision, the term "common-interest community" shall mean a condominium as said term is used in chapter 448, RSMo, or a common-interest community, a cooperative, or a planned community.

(a) A "common-interest community" shall be defined as real property with respect to which a person, by virtue of such person's ownership of a unit, is obliged to pay for real property taxes, insurance premiums, maintenance or improvement of other real property described in a declaration. "Ownership of a unit" does not include a leasehold interest of less than twenty years in a unit, including renewal options;

(b) A "cooperative" shall be defined as a common-interest community in which the real property is owned by an association, each of whose members is entitled by virtue of such member's ownership interest in the association to exclusive possession of a unit;

(c) A "planned community" a common-interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(2) At the public hearing any interested person, corporation or political subdivision may present evidence regarding the proposed annexation. If, after holding the hearing, the governing body of the city, town or village determines that the annexation is reasonable and necessary to the proper development of the city, town or village, and the city, town or village has the ability to furnish normal municipal services to the area to be annexed within a reasonable time, it may, subject to the provisions of subdivision (3) of this subsection, annex the territory by ordinance without further action.

(3) If a written objection to the proposed annexation is filed with the governing body of the city, town or village not later than fourteen days after the public hearing by at least **[**two**]** **five** percent of the qualified voters of the city, town or village, or two qualified voters of the area sought to be annexed if the same contains two qualified voters, the provisions of sections 71.015 and 71.860 to 71.920, shall be followed.

3. If no objection is filed, the city, town or village shall extend its limits by ordinance to include such territory, specifying with accuracy the new boundary lines to which the city's, town's or village's limits are extended. Upon duly enacting such annexation ordinance, the city, town or village shall cause three certified copies of the same to be filed with the clerk of the county wherein the city, town or village is located, and one certified copy to be filed with the election authority, if different from the clerk of the county which has jurisdiction over the area being annexed, whereupon the annexation shall be complete and final and thereafter all courts of this state shall take judicial notice of the limits of that city, town or village as so extended.

71.794. ESTABLISHING OR ALTERING SIZE OF DISTRICT, PROCEDURE. — A special business district may be established, enlarged or decreased in area as provided herein in the following manner:

(1) Upon petition by one or more owners of real property on which is paid the ad valorem real property taxes within the proposed district, the governing body of the city may adopt a resolution of intention to establish, enlarge or decrease in area a special business district. The resolution shall contain the following information:

(a) Description of the boundaries of the proposed area;

(b) The time and place of a hearing to be held by the governing body considering establishment of the district;

(c) The proposed uses to which the additional revenue shall be put and the initial tax rate to be levied.

(2) Whenever a hearing is held as provided hereunder, the governing body of the city shall publish notice of the hearing on two separate occasions in at least one newspaper of general circulation not more than fifteen days nor less than ten days before the hearing; and shall mail a notice by **[**registered or certified**]** United States mail **[**with a return receipt attached**]** of the hearing to all owners of record of real property and licensed businesses located in the proposed district; and shall hear all protests and receive evidence for or against the proposed action; rule upon all protests which determination shall be final; and continue the hearing from time to time.

(3) If the governing body decides to change the boundaries of the proposed area, the hearing shall be continued to a time at least fifteen days after the decision. Notice shall be given in at least one newspaper of general circulation at least ten days prior to the time of said hearing showing the boundary amendments.

(4) If the governing body following the hearing decides to establish the proposed district, it shall adopt an ordinance to that effect. The ordinance shall contain the following:

(a) The number, date and time of the resolution of intention pursuant to which it was adopted;

(b) The time and place the hearing was held concerning the formation of the area;

(c) The description of the boundaries of the district;

(d) A statement that the property in the area established by the ordinance shall be subject to the provisions of additional tax as provided herein;

(e) The initial rate of levy to be imposed upon the property lying within the boundaries of the district;

(f) A statement that a special business district has been established;

(g) The uses to which the additional revenue shall be put;

(h) In any city with a population of less than three hundred fifty thousand, the creation of an advisory board or commission and enumeration of its duties and responsibilities;

(i) In any city with a population of three hundred fifty thousand or more, provisions for a board of commissioners to administer the special business district, which board shall consist of seven members who shall be appointed by the mayor with the advice and consent of the governing body of the city. Five members shall be owners of real property within the district or their representatives and two members shall be renters of real property within the district or their representatives. The terms of the members shall be structured so that not more than two

members' terms shall expire in any one year. Subject to the foregoing, the governing body of the city shall provide in such ordinance for the method of appointment, the qualifications, and terms of the members.

79.600. ANNEXATION OF TRASH AND RECYCLABLE MATERIAL FACILITIES, PROCEDURE (CITY OF EUREKA) — Notwithstanding the annexation provisions of chapter 71, RSMo, if the governing body of a city of the fourth classification with more than seven thousand five hundred but fewer than seven thousand six hundred eighty inhabitants and located in any county with a charter form of government and with more than one million inhabitants finds it is in the public interest that a parcel of land located in an unincorporated area of said county, which is proposed for use as a trash and recyclable material transfer facility or recyclable material reclamation facility, should be located in the city for purposes of ensuring that there is more local legislative consideration, building inspections, and monitoring of ongoing operations, the city may annex such parcel, provided that the city obtains the written consent of all the property owners located within the unincorporated area of such parcel. Further, both such city and county shall adopt reciprocal ordinances authorizing the annexation of such parcel by the city. Notwithstanding the provisions of section 71.012, RSMo, the subject parcel shall be considered contiguous and compact with the city if it is located within two miles of the city by means of railroad line owned property.

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.

4. The provisions of this section shall terminate on August 28, **[**2004**] 2010**.

82.301. DEFINITIONS. — As used in sections 82.301 to 82.305, the following terms mean:

(1) "Local code violation", a violation under the provisions of a local code of general ordinances of any home rule city with more than four hundred thousand inhabitants and located in more than one county which regulates fire prevention, animal control, noise

control, property maintenance, building construction, health and sanitation, and nuisances;

(2) "Neighborhood organization", an organization defined in section 32.105, RSMo;

(3) "Nuisance", within the boundaries of the community represented by the neighborhood organization, an act or condition knowingly created, performed, or maintained on private property that constitutes a local code violation and that:

(a) Significantly affects the other residents of the neighborhood;

(b) Diminishes the value of the neighboring property; and

(c) Is injurious to public health, safety, or welfare of neighboring residents or obstructs the reasonable use of other property in the neighborhood.

82.302. APPLICABILITY TO KANSAS CITY. — Sections 82.301 to 82.303 apply to a nuisance located within the boundaries of any home rule city with more than four hundred thousand inhabitants and located in more than one county.

82.303. ABATEMENT OF A NUISANCE, NEIGHBORHOOD ORGANIZATION MAY SEEK INJUNCTIVE RELIEF, PROCEDURE. — 1. A neighborhood organization representing persons aggrieved by a local code violation may seek injunctive and other equitable relief in the circuit court for abatement of a nuisance upon showing:

(1) The notice requirements of this subsection have been satisfied; and

(2) The nuisance exists and has not been abated.

2. An action under this section shall not be brought:

(1) Until sixty days after the neighborhood organization sends notice of the violation and of the neighborhood organization's intent to bring an action under this section, by certified mail, return receipt requested, to the appropriate municipal code enforcement agency;

(2) If the appropriate municipal code enforcement agency has filed an action for equitable relief from the nuisance;

(3) Until sixty days after the neighborhood organization sends notice by first class prepaid postage certified mail to the tenant, if any, and the property owner of record that a nuisance exists and that legal action may be taken if the nuisance is not abated. If the notice sent by certified mail is returned unclaimed or refused, designated by the post office to be undeliverable, or signed for by a person other than the addressee, then adequate and sufficient notice may be given to the tenant, if any, and the property owner of record by sending a copy of the notice by regular mail and posting a copy of notice on the property where the nuisance allegedly is occurring. The notice shall specify:

(a) The nature of the alleged nuisance;

(b) The date and time of day the nuisance was first discovered;

(c) The location on the property where the nuisance is allegedly occurring; and

(d) The relief sought in the action.

3. In filing a suit under this section, an officer of the neighborhood organization shall certify to the court:

(1) That the neighborhood organization has taken the required steps to satisfy the notice requirements under this subsection; and

(2) That each condition precedent to the filing of the action under this section has been met.

4. An action shall not be brought against an owner of residential rental property unless, prior to giving notice under this section, a notice of violation relating to the nuisance first has been issued by an appropriate municipal code enforcement agency and remains outstanding after a period of forty-five days.

5. (1) If a violation notice issued by an appropriate municipal code enforcement agency is an essential element of the municipal enforcement action, a copy of the notice

signed by an official of the appropriate municipal code enforcement agency shall be prima facie evidence of the facts contained in the notice.

(2) A notice of abatement issued by the appropriate municipal code enforcement agency in regard to the violation notice shall be prima facie evidence that the plaintiff is not entitled to the relief requested.

6. A proceeding under this section shall:

(1) Be heard at the earliest practicable date; and

(2) Be expedited in every way.

82.305. STATUTES NOT TO ABROGATE ANY EQUITABLE RIGHT OR REMEDY — STANDING NOT GRANTED, WHEN. — 1. Subject to subsection 2 of this section, sections 82.301 to 82.303 shall not be construed as to abrogate any equitable or legal right or remedy otherwise available under the law to abate a nuisance.

2. Sections 82.301 to 82.303 shall not be construed as to grant standing for an action:

(1) Challenging any zoning application or approval;

(2) In which the alleged nuisance consists of an interior physical defect of a property; or

(3) Involving any violation of municipal alcoholic beverages law.

82.1025. NUISANCE ACTION FOR DETERIORATED PROPERTY (JEFFERSON, PLATTE, FRANKLIN, AND ST. LOUIS COUNTIES, SPRINGFIELD, ST. LOUIS, KANSAS CITY). — 1. In any county of the first classification with a charter form of government and a population greater than nine hundred thousand, **in any county of the first classification with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants, in any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, in any home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants,** in any city not within a county and in any city with at least three hundred fifty thousand inhabitants which is located in more than one county, a parcel of property is a nuisance, if such property adversely affects the property values of a neighborhood because the owner of such property allows the property to be in a deteriorated condition, due to neglect, violation of a county or municipal building code or standard, abandonment, failure to repair after a fire, flood or some other damage to the property or because the owner or resident of the property allows clutter on the property such as abandoned automobiles, appliances or similar objects. Any property owner, who owns property within a reasonable distance to a parcel of property which is alleged to be a nuisance may bring a nuisance action against the offending property owner for the amount of damage created by such property to the value of the petitioner's property and court costs, provided that the owner of the property which is alleged to be a nuisance has received notification of the alleged nuisance and has had a reasonable opportunity, not to exceed forty-five days, to correct the alleged nuisance. This section is not intended to abrogate, and shall not be construed as abrogating, any remedy available under the common law of private nuisance.

2. A nuisance action for injunctive relief may be brought by a neighborhood organization, as defined in section 32.105, RSMo, representing any person or persons who could maintain a nuisance action under this section or under the common law of private nuisance.

94.270. POWER TO LICENSE, TAX AND REGULATE CERTAIN BUSINESSES AND OCCUPATIONS — PROHIBITION ON LOCAL LICENSE FEES IN EXCESS OF CERTAIN AMOUNTS IN CERTAIN CITIES (EDMUNDSON, WOODSON TERRACE) — LICENSE FEE ON HOTELS OR MOTELS (ST PETERS) — INCREASE OR DECREASE OF TAX, WHEN. — 1. The mayor and board

of aldermen shall have power and authority to regulate and to license and to levy and collect a license tax on auctioneers, druggists, hawkers, peddlers, banks, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, hotels, public boardinghouses, billiard and pool tables and other tables, bowling alleys, lumber dealers, real estate agents, loan companies, loan agents, public buildings, public halls, opera houses, concerts, photographers, bill posters, artists, agents, porters, public lecturers, public meetings, circuses and shows, for parades and exhibitions, moving picture shows, horse or cattle dealers, patent right dealers, stockyards, inspectors, gaugers, mercantile agents, gas companies, insurance companies, insurance agents, express companies, and express agents, telegraph companies, light, power and water companies, telephone companies, manufacturing and other corporations or institutions, automobile agencies, and dealers, public garages, automobile repair shops or both combined, dealers in automobile accessories, gasoline filling stations, soft drink stands, ice cream stands, ice cream and soft drink stands combined, soda fountains, street railroad cars, omnibuses, drays, transfer and all other vehicles, traveling and auction stores, plumbers, and all other business, trades and avocations whatsoever, and fix the rate of carriage of persons, drayage and cartage of property; and to license, tax, regulate and suppress ordinaries, money brokers, money changers, intelligence and employment offices and agencies, public masquerades, balls, street exhibitions, dance houses, fortune tellers, pistol galleries, corn doctors, private venereal hospitals, museums, menageries, equestrian performances, horoscopic views, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, billiard tables, pool tables and other tables, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, tippling houses, and sales of unclaimed goods by express companies or common carriers, auto wrecking shops and junk dealers; to license, tax and regulate hackmen, draymen, omnibus drivers, porters and all others pursuing like occupations, with or without vehicles, and to prescribe their compensation; and to regulate, license and restrain runners for steamboats, cars, and public houses; and to license ferries, and to regulate the same and the landing thereof within the limits of the city, and to license and tax auto liveries, auto drays and jitneys.

2. Notwithstanding any other law to the contrary, no city of the fourth classification with more than eight hundred but less than nine hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of twenty-seven dollars per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitations of this subsection shall be automatically reduced to comply with this subsection.

3. Notwithstanding any other law to the contrary, no city of the fourth classification with more than four thousand one hundred but less than four thousand two hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of thirteen dollars and fifty cents per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitations of this subsection shall be automatically reduced to comply with this subsection.

4. Notwithstanding any other law to the contrary, on or after January 1, 2006, no city of the fourth classification with more than fifty-one thousand three hundred and eighty but less than fifty-one thousand four hundred inhabitants and located in any county with a charter form of government and with more than two hundred eighty thousand but less than two hundred eighty-five thousand shall levy or collect a license fee on hotels or motels in an amount in excess of one thousand dollars per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitation of this subsection shall be automatically reduced to comply with this subsection.

5. Any city under subsection 4 of this section may increase a hotel and motel license tax by five percent per year but the total tax levied under this section shall not exceed one-eighth of one percent of such hotels' or motels' gross revenue.

6. Any city under subsections 1, 2, and 3 of this section may increase a hotel and motel license tax by five percent per year but the total tax levied under this section shall not exceed the greater of:

(1) One-eighth of one percent of such hotels' or motels' gross revenue; or

(2) The business license tax rate for such hotel or motel on May 1, 2005.

7. The provisions of subsection 6 of this section shall not apply to any tax levied by a city when the revenue from such tax is restricted for use to a project from which bonds are outstanding as of May 1, 2005.

94.700. DEFINITIONS. — The following words, as used in sections 94.700 to 94.755, shall have the following meaning unless a different meaning clearly appears from the context:

(1) "City" shall mean any incorporated city, town, or village in the state of Missouri with a population of **[**two**]** **one** hundred or more, but the term "city" does not include any city not within a county or any city of over four hundred thousand inhabitants wholly or partially within a first class county;

(2) "City transit authority" shall mean a commission or board created by city charter provision or by ordinance of a city, and which operates a public mass transportation system;

(3) "City utilities board" shall mean a board or commission created by city charter provision or by ordinance of a city, which controls and operates city-owned utilities including a public mass transportation system;

(4) "Director of revenue" shall mean the director of revenue of the state of Missouri;

(5) "Interstate transportation authority" shall mean any political subdivision created by compact between this state and another state, which is a body corporate and politic and a political subdivision of both contracting states, and which operates a public mass transportation system;

(6) "Interstate transportation district" shall mean that geographical area set forth and defined in the particular compact between this state and another state;

(7) "Person" shall mean an individual, corporation, partnership, or other entity;

(8) "Public mass transportation system" shall mean a transportation system or systems owned and operated by an interstate transportation authority, a municipality, a city transit authority, or a city utilities board, employing motor buses, rails or any other means of conveyance, by whatsoever type or power, operated for public use in the conveyance of persons, mainly providing local transportation service within an interstate transportation district or municipality;

(9) "Transportation purposes" shall mean financial support of a "public mass transportation system"; the construction, reconstruction, repair and maintenance of streets, roads and bridges within a municipality; the construction, reconstruction, repair and maintenance of airports owned and operated by municipalities; the acquisition of lands and rights-of-way for streets, roads, bridges and airports; and planning and feasibility studies for streets, roads, bridges, and airports. "Bridges" shall include bridges connecting a municipality with another municipality either within or without the state, with an unincorporated area of the state, or with another state or an unincorporated area thereof.

94.837. TRANSIENT GUEST TAX (CANTON, LAGRANGE, EDINA). — 1. The governing body of any city of the fourth classification with more than two thousand five hundred but fewer than two thousand six hundred inhabitants and located in any county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants, the governing body of any special charter city with more than nine hundred fifty but fewer than one thousand fifty inhabitants, and the governing body of any city of the fourth classification with more than one thousand two hundred but fewer than one thousand three hundred inhabitants and located in any county of the third classification without a township form of government and with more than four thousand three hundred but fewer than four

thousand four hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which shall not be more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and the proceeds of such tax shall be used by the city solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in ..... (name of city) at a rate of ..... (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

3. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

94.838. TRANSIENT GUEST TAX AND TAX ON RETAIL SALES OF FOOD (LAMAR HEIGHTS). — 1. As used in this section, the following terms mean:

(1) "Food", all articles commonly used for food or drink, including alcoholic beverages, the provisions of chapter 311, RSMo, notwithstanding;

(2) "Food establishment", any café, cafeteria, lunchroom, or restaurant which sells food at retail;

(3) "Municipality", any village with more than two hundred but less than three hundred inhabitants and located in any county of the third classification with a township form of government and with more than twelve thousand five hundred but less than twelve thousand six hundred inhabitants;

(4) "Transient guest", a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

2. The governing body of any municipality may impose, by order or ordinance:

(1) A tax, not to exceed six percent per room per night, on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the municipality or a portion thereof; and

(2) A tax, not to exceed two percent, on the gross receipts derived from the retail sales of food by every person operating a food establishment in the municipality.

The taxes shall be imposed solely for the purpose of funding the construction, maintenance, and operation of capital improvements. The order or ordinance shall not become effective unless the governing body of the municipality submits to the voters of the municipality at a state general or primary election a proposal to authorize the governing body of the municipality to impose taxes under this section. The taxes authorized in this section shall be in addition to the charge for the sleeping room, the retail sales of food at

a food establishment, and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

3. The ballot of submission for the taxes authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the municipality) impose a tax on the charges for all retail sales of food at a food establishment situated in ..... (name of municipality) at a rate of ..... (insert rate of percent) percent, and for all sleeping rooms paid by the transient guests of hotels and motels situated in ..... (name of municipality) at a rate of ..... (insert rate of percent) percent, solely for the purpose of funding the construction, maintenance, and operation of capital improvements?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the taxes shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the taxes. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the taxes shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

4. Any tax on the retail sales of food imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo, and any transient guest tax imposed under this section shall be administered, collected, enforced, and operated by the municipality imposing the tax. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

5. Once the initial bonds, if any, have been satisfied, then the governing body of any municipality that has adopted the taxes authorized in this section may submit the question of repeal of the taxes to the voters on any date available for elections for the municipality. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the municipality) repeal the taxes imposed at the rates of ..... (insert rate of percent) and ..... (insert rate of percent) percent for the purpose of funding the construction, maintenance, and operation of capital improvements?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Once the initial bonds, if any, have been satisfied, then, whenever the governing body of any municipality that has adopted the taxes authorized in this section receives a petition, signed by ten percent of the registered voters of the municipality voting in the last gubernatorial election, calling for an election to repeal the taxes imposed under this section, the governing body shall submit to the voters of the municipality a proposal to repeal the taxes. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to

the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

99.1080. CITATION OF LAW. — Sections 99.1080 to 99.1092 shall be known and may be cited as the "Downtown Revitalization Preservation Program".

99.1082. DEFINITIONS. — As used in sections 99.1080 to 99.1092, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Baseline year", the calendar year prior to the adoption of an ordinance by the municipality approving a redevelopment project; provided, however, if local sales tax revenues or state sales tax revenues, from businesses other than any out-of-state business or businesses locating in the redevelopment project area, decrease in the redevelopment project area in the year following the year in which the ordinance approving a redevelopment project is approved by a municipality, the baseline year may, at the option of the municipality approving the redevelopment project, be the year following the year of the adoption of the ordinance approving the redevelopment project. When a redevelopment project area is located within a county for which public and individual assistance has been requested by the governor under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor under section 44.100, RSMo, due to a natural disaster of major proportions and the redevelopment project area is a central business district that sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency, the baseline year may, at the option of the municipality approving the redevelopment project, be the calendar year in which the natural disaster occurred or the year following the year in which the natural disaster occurred, provided that the municipality adopts an ordinance approving the redevelopment project within one year after the occurrence of the natural disaster;

(2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(3) "Central business district", the area at or near the historic core that is locally known as the "downtown" of a municipality that has a median household income of sixty-two thousand dollars or less, according to the last decennial census. In addition, at least fifty percent of existing buildings in this area will have been built in excess of thirty-five years prior or vacant lots that had prior structures built in excess of thirty-five years prior to the adoption of the ordinance approving the redevelopment plan. The historical land use emphasis of a central business district prior to redevelopment will have been a mixed use of business, commercial, financial, transportation, government, and multifamily residential uses;

(4) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more, and such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning;

(5) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo;

(6) "Local sales tax increment", at least fifty percent of the local sales tax revenue from taxes that are imposed by a municipality and its county, and that are generated by economic activities within a redevelopment area over the amount of such taxes generated by economic activities within such a redevelopment area in the calendar year prior to the adoption of the ordinance designating such a redevelopment area while financing under sections 99.1080 to 99.1092 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, licenses, fees, or special assessments; provided however, the governing body of any county may, by resolution, exclude any portion of any county-wide sales tax of such county. For redevelopment projects or redevelopment plans approved after August 28, 2005, if a retail establishment relocates within one year from one facility within the same county and the governing body of the municipality finds that the retail establishment is a direct beneficiary of tax increment financing, then for the purposes of this subdivision, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes that are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

(7) "Local sales tax revenue", city sales tax revenues received under sections 94.500 to 94.550, RSMo, and county sales tax revenues received under sections 67.500 to 67.594, RSMo;

(8) "Major initiative", a development project within a central business district which promotes tourism, cultural activities, arts, entertainment, education, research, arenas, multipurpose facilities, libraries, ports, mass transit, museums, economic development, or conventions for the municipality, and where the capital investment within the redevelopment project area is:

(a) At least five million dollars for a project area within a city having a population of one hundred thousand to one hundred ninety nine thousand nine hundred and ninety-nine inhabitants;

(b) At least one million dollars for a project area within a city having a population of fifty thousand to ninety-nine thousand nine hundred and ninety-nine inhabitants;

(c) At least five hundred thousand dollars for a project area within a city having a population of ten thousand to forty-nine thousand nine hundred and ninety-nine inhabitants; or

(d) At least two hundred fifty thousand dollars for a project area within a city having a population of one to nine thousand nine hundred and ninety-nine inhabitants;

(9) "Municipality", any city or county of this state having fewer than two hundred thousand inhabitants;

(10) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the municipality or authority, or other public entity authorized to issue such obligations under sections 99.1080 to 99.1092 to carry out a redevelopment project or to refund outstanding obligations;

(11) "Ordinance", an ordinance enacted by the governing body of any municipality;

(12) "Redevelopment area", an area designated by a municipality in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area or a conservation area, which area shall have the following characteristics:

(a) It can be renovated through one or more redevelopment projects;

(b) It is located in the central business district;

(c) The redevelopment area shall not exceed ten percent of the entire geographic area of the municipality.

Subject to the limitation set forth in this subdivision, the redevelopment area can be enlarged or modified as provided in section 99.1088;

(13) "Redevelopment plan", the comprehensive program of a municipality to reduce or eliminate those conditions which qualify a redevelopment area as a blighted area or a conservation area, and to thereby enhance the tax bases of the taxing districts which extend into the redevelopment area through the reimbursement, payment, or other financing of redevelopment project costs in accordance with sections 99.1080 to 99.1092 and through application for and administration of downtown revitalization preservation program financing under sections 99.1080 to 99.1092;

(14) "Redevelopment project", any redevelopment project within a redevelopment area which constitutes a major initiative in furtherance of the objectives of the redevelopment plan, and any such redevelopment project shall include a legal description of the area selected for such redevelopment project;

(15) "Redevelopment project area", the area located within a redevelopment area selected for a redevelopment project;

(16) "Redevelopment project costs", include such costs to the redevelopment plan or a redevelopment project, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure to support a redevelopment project, including facades. Such costs shall only be allowed as an initial expense which, to be recoverable, must be included in the costs of a redevelopment plan or redevelopment project, except in circumstances of plan amendments approved by the department of economic development. Such infrastructure costs include, but are not limited to, the following:

(a) Costs of studies, appraisals, surveys, plans, and specifications;

(b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;

(e) Costs of construction of public works or improvements;

(f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one or more redevelopment projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;

(g) All or a portion of a taxing district's capital costs resulting from any redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;

(h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a redevelopment project when all debt is retired;

(i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development and the department of revenue in evaluating an application for and administering downtown revitalization preservation financing for a redevelopment project;

(17) "State sales tax increment", up to one-half of the incremental increase in the state sales tax revenue in the redevelopment project area provided the local taxing jurisdictions commit one-half of their local sales tax to paying for redevelopment project

costs. The incremental increase shall be the amount by which the state sales tax revenue generated at the facility or within the redevelopment project area exceeds the state sales tax revenue generated at the facility or within the redevelopment project area in the baseline year. For redevelopment projects or redevelopment plans approved after August 28, 2005, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the retail establishment is a direct beneficiary of tax increment financing, then for the purposes of this subdivision, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes that are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to the relocation to the redevelopment area;

(18) "State sales tax revenues", the general revenue portion of state sales tax revenues received under 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;

(19) "Taxing districts", any political subdivision of this state having the power to levy taxes;

(20) "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from a redevelopment project.

99.1086. REDEVELOPMENT PLAN, CONTENTS — ADOPTION OF PLAN, WHEN. — 1. A redevelopment plan shall set forth in writing a general description of the program to be undertaken to accomplish the redevelopment projects and related objectives and shall include, but need not be limited to:

(1) The name, street and mailing address, and phone number of the mayor or chief executive officer of the municipality;

(2) The street address of the redevelopment site;

(3) The estimated redevelopment project costs;

(4) The anticipated sources of funds to pay such redevelopment project costs;

(5) Evidence of the commitments to finance such redevelopment project costs;

(6) The anticipated type and term of the sources of funds to pay such redevelopment project costs;

(7) The anticipated type and terms of the obligations to be issued;

(8) The general land uses to apply in the redevelopment area;

(9) A list of other community and economic benefits to result from the project;

(10) A list of all other public investments made or to be made by this state or units of local government to support infrastructure or other needs generated by the project for which the funding under sections 99.1080 to 99.1092 is being sought;

(11) A certification by the chief officer of the applicant as to the accuracy of the redevelopment plan;

(12) A study analyzing the revenues that are being displaced as a result of the project that otherwise would have occurred in the market area. The department of economic development shall have discretion to exempt smaller projects from this requirement;

(13) An economic feasibility analysis including a pro forma financial statement indicating the return on investment that may be expected without public assistance. The financial statement shall detail any assumptions made including a pro forma statement analysis that demonstrates the amount of assistance required to bring the return into a range deemed attractive to private investors. That amount shall not exceed the estimated reimbursable project costs.

2. The redevelopment plan may be adopted by a municipality in reliance on findings that a reasonable person would believe:

(1) The redevelopment area on the whole is a blighted area or a conservation area as determined by an independent third party. Such a finding shall include, but not be limited to, a detailed description of the factors that qualify the redevelopment area or project under this subsection;

(2) The redevelopment area has not been subject to growth and redevelopment through investment by private enterprise or would not reasonably be anticipated to develop or continue to be developed without the implementation of one or more redevelopment projects and the adoption of local and state redevelopment financing;

(3) The redevelopment plan conforms to the comprehensive plan for the redevelopment of the municipality as a whole;

(4) The estimated dates, which shall not be more than twenty-five years from the adoption of the ordinance approving any redevelopment project, of the completion of such redevelopment project and retirement of obligations incurred to finance redevelopment project costs have been stated, provided that no ordinance approving a redevelopment project shall be adopted later than fifteen years from the adoption of the ordinance approving the redevelopment plan and provided that no property for a redevelopment project shall be acquired by eminent domain later than ten years from the adoption of the ordinance approving such redevelopment plan;

(5) In the event any business or residence is to be relocated as a direct result of the implementation of the redevelopment plan, a plan has been developed for relocation assistance for businesses and residences; and

(6) The redevelopment plan does not include the initial development or redevelopment of any gambling establishment.

99.1088. PUBLIC HEARING REQUIRED, NOTICE REQUIREMENTS — CHANGES TO A PLAN WITHOUT FURTHER HEARING, WHEN — BOUNDARIES OF REDEVELOPMENT AREA NOT TO BE CHANGED AFTER ADOPTION. — 1. Prior to the adoption of the ordinance designating a redevelopment area, adopting a redevelopment plan, or approving a redevelopment project, the municipality or authority shall fix a time and place for a public hearing and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area or redevelopment project area affected. Such notice shall comply with the provisions of subsections 2 and 3 of this section. At the public hearing any interested person or affected taxing district may file with the municipality or authority written objections to, or comments on, and may be heard orally in respect to any issues regarding the plan or issues embodied in the notice. The municipality or authority shall hear and consider all protests, objections, comments, and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, redevelopment area or redevelopment project area, provided that written notice of such changes is available at the public hearing. After the public hearing but prior to the adoption of an ordinance designating a redevelopment area, adopting a redevelopment plan or approving a redevelopment project, changes may be made to any such proposed redevelopment plan, redevelopment project, redevelopment area, or redevelopment project area without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area, and do not substantially affect the general land uses established in a redevelopment plan or redevelopment project, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the redevelopment area or redevelopment project area, as applicable, not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance designating the

redevelopment area, adopting a redevelopment plan, approving a redevelopment project, or designating a redevelopment project area, no ordinance shall be adopted altering the exterior boundaries of the redevelopment area or a redevelopment project area affecting the general land uses established under the redevelopment plan or the general nature of a redevelopment project without holding a public hearing in accordance with this section. One public hearing may be held for the simultaneous consideration of a redevelopment area, redevelopment plan, redevelopment project, or redevelopment project area.

2. Notice of the public hearing required by this section shall be given by publication and mailing. Notice by publication shall be given by publication at least twice, the first publication to be not more than thirty days and the second publication to be not more than ten days prior to the hearing, in a newspaper of general circulation in the proposed redevelopment area or redevelopment project area, as applicable. Notice by mailing shall be given by depositing such notice in the United States mail by certified mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the proposed redevelopment area or redevelopment project area, as applicable. Such notice shall be mailed not less than ten working days prior to the date set for the public hearing.

3. The notices issued under this section shall include the following:

(1) The time and place of the public hearing;

(2) The general boundaries of the proposed redevelopment area or redevelopment project area, as applicable, by street location, where possible;

(3) A statement that all interested persons shall be given an opportunity to be heard at the public hearing;

(4) A description of the redevelopment plan and the proposed redevelopment projects and a location and time where the entire redevelopment plan or redevelopment projects proposed may be reviewed by any interested party;

(5) A statement that redevelopment financing involving tax revenues is being sought for the project and an estimate of the amount of local redevelopment financing that will be requested, if applicable; and

(6) Such other matters as the municipality or authority may deem appropriate.

4. Not less than forty-five days prior to the date set for the public hearing, the municipality or authority shall give notice by mail as provided in subsection 2 of this section to all taxing districts whose taxes are affected in the redevelopment area or redevelopment project area, as applicable, and in addition to the other requirements under subsection 3 of this section, the notice shall include an invitation to each taxing district to submit comments to the municipality or authority concerning the subject matter of the hearing prior to the date of the hearing.

5. A copy of any and all hearing notices required by this section shall be submitted by the municipality or authority to the director of the department of economic development and the date such notices were mailed or published, as applicable.

99.1090. APPLICATION TO DEPARTMENT FOR APPROVAL OF PROJECT COSTS, APPROVAL PROCEDURE — RULEMAKING AUTHORITY. — 1. A municipality shall submit an application to the department of economic development for review and determination as to approval of the disbursement of the project costs of one or more redevelopment projects from the downtown revitalization preservation fund. The department of economic development shall forward the application to the commissioner of the office of administration for approval. In no event shall any approval authorize a disbursement of one or more redevelopment projects from the downtown revitalization preservation fund which exceeds the allowable amount of other net new revenues derived from the redevelopment area. An application submitted to the department of economic development shall contain the following, in addition to the items set forth in section 99.1086:

(1) An estimate that one hundred percent of the local sales tax increment deposited to the special allocation fund must and will be used to pay redevelopment project costs or obligations issued to finance redevelopment project costs to achieve the objectives of the redevelopment plan;

(2) Identification of the existing businesses located within the redevelopment project area and the redevelopment area;

(3) The aggregate baseline year amount of state sales tax revenues reported by existing businesses within the redevelopment project area. Provisions of section 32.057, RSMo, notwithstanding, municipalities will provide this information to the department of revenue for verification. The department of revenue will verify the information provided by the municipalities within forty-five days of receiving a request for such verification from a municipality;

(4) An estimate of the state sales tax increment within the redevelopment project area after redevelopment. The department of economic development shall have the discretion to exempt smaller projects from this requirement;

(5) An affidavit that is signed by the developer or developers attesting that the provision of subdivision (2) of subsection 2 of section 99.1086 has been met;

(6) The amounts and types of other net new revenues sought by the applicant to be disbursed from the downtown revitalization preservation fund over the term of the redevelopment plan;

(7) The methodologies and underlying assumptions used in determining the estimate of the state sales tax increment; and

(8) Any other information reasonably requested by the department of economic development.

2. The department of economic development shall make all reasonable efforts to process applications within a reasonable amount of time.

3. The department of economic development shall make a determination regarding the application for a certificate allowing disbursements from the downtown revitalization preservation fund and shall forward such determination to the commissioner of the office of administration. In no event shall the amount of disbursements from the downtown revitalization preservation fund approved for a project, in addition to any other state economic redevelopment funding or other state incentives, exceed the projected state benefit of the redevelopment project, as determined by the department of economic development through a cost-benefit analysis. Any political subdivision located either wholly or partially within the redevelopment area shall be permitted to submit information to the department of economic development for consideration in its cost-benefit analysis. Upon approval of downtown revitalization preservation financing, a certificate of approval shall be issued by the department of economic development containing the terms and limitations of the disbursement.

4. At no time shall the annual amount of other net new revenues approved for disbursements from the downtown revitalization preservation fund exceed fifteen million dollars.

5. Redevelopment projects receiving disbursements from the downtown revitalization preservation fund shall be limited to receiving such disbursements for twenty-five years. The approved term notwithstanding, downtown revitalization preservation financing shall terminate when redevelopment financing for a redevelopment project is terminated by a municipality.

6. The municipality shall deposit payments received from the downtown revitalization preservation redevelopment fund in a separate segregated account for other net new revenues within the special allocation fund.

7. Redevelopment project costs may include, at the prerogative of the state, the portion of salaries and expenses of the department of economic development and the department of revenue reasonably allocable to each redevelopment project approved for

disbursements from the downtown revitalization preservation fund for the ongoing administrative functions associated with such redevelopment project. Such amounts shall be recovered from new state revenues deposited into the downtown revitalization preservation fund created under section 99.1092.

8. A redevelopment project approved for downtown revitalization preservation financing shall not thereafter elect to receive tax increment financing under the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, and continue to receive downtown revitalization financing under sections 99.1080 to 99.1092.

9. The department of economic development may establish the procedures and standards for the determination and approval of applications by the promulgation of rules and publish forms to implement the provisions of this section and section 99.1092.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section and section 99.1092 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, section 99.1092, and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

99.1092. FUND ESTABLISHED, ALLOCATION OF MONEYS — RULEMAKING AUTHORITY. — 1. There is hereby established within the state treasury a special fund to be known as the "Downtown Revitalization Preservation Fund", to be administered by the department of economic development. Any unexpended balance and any interest in the fund at the end of the biennium shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund. The fund shall consist of:

(1) The first fifteen million dollars of other net new revenues generated annually by the redevelopment projects;

(2) Money received from costs charged under subsection 7 of section 99.1090; and

(3) Gifts, contributions, grants, or bequests received from federal, private, or other sources.

2. Notwithstanding the provisions of section 144.700, RSMo, to the contrary, the department of revenue shall annually submit the first fifteen million dollars of other net new revenues generated by the redevelopment projects to the treasurer for deposit in the downtown revitalization preservation fund.

3. The department of economic development shall annually disburse funds from the downtown revitalization preservation fund in amounts determined under the certificates of approval for projects, providing that the amounts of other net new revenues generated from the redevelopment area have been verified and all of the conditions of sections 99.1080 to 99.1092 are met. If the revenues appropriated from the downtown revitalization preservation fund are not sufficient to equal the amounts determined to be disbursed under such certificates of approval, the department of economic development shall disburse the revenues on a pro rata basis to all such projects and other costs approved under section 99.1090.

4. In no event shall the amounts distributed to a project from the downtown revitalization preservation fund exceed the lessor of the amount of the certificates of approval for projects or the actual other net new revenues generated by the projects.

5. The department of economic development shall not disburse any moneys from the downtown revitalization preservation fund for any project which has not complied with the annual reporting requirements determined by the department of economic development.

6. Money in the downtown revitalization preservation fund may be spent for the reasonable and necessary costs associated with the administration of the program authorized under sections 99.1080 to 99.1092.

7. No municipality shall obligate or commit the expenditure of disbursements received from the downtown revitalization preservation fund prior to receiving a certificate of approval for the redevelopment project generating other net new revenues. In addition, no municipality shall commence work on a redevelopment project prior to receiving a certificate of approval for the redevelopment project.

8. Taxpayers in any redevelopment area who are required to remit sales taxes under chapter 144, RSMo, shall provide additional information to the department of revenue in a form prescribed by the department by rule. Such information shall include, but shall not be limited to, information upon which other net new revenues can be calculated and sales tax generated in the redevelopment area by such taxpayer in the baseline year and during the time period related to the sales tax remittance.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

100.050. APPROVAL OF PLAN BY GOVERNING BODY OF MUNICIPALITY — INFORMATION REQUIRED — ADDITIONAL INFORMATION REQUIRED, WHEN — PAYMENTS IN LIEU OF TAXES, APPLIED HOW. — 1. Any municipality proposing to carry out a project for industrial development shall first, by majority vote of the governing body of the municipality, approve the plan for the project. The plan shall include the following information pertaining to the proposed project:

(1) A description of the project;

(2) An estimate of the cost of the project;

(3) A statement of the source of funds to be expended for the project;

(4) A statement of the terms upon which the facilities to be provided by the project are to be leased or otherwise disposed of by the municipality; and

(5) Such other information necessary to meet the requirements of sections 100.010 to 100.200.

2. If the plan for the project is approved after August 28, 2003, and the project plan involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality, the project plan shall additionally include the following information:

(1) A statement identifying each school district, **junior college district,** county, or city affected by such project except property assessed by the state tax commission pursuant to chapters 151 and 153, RSMo;

(2) The most recent equalized assessed valuation of the real property and personal property included in the project, and an estimate as to the equalized assessed valuation of real property and personal property included in the project after development;

(3) An analysis of the costs and benefits of the project on each school district, **junior college district,** county, or city; and

(4) Identification of any payments in lieu of taxes expected to be made by any lessee of the project, and the disposition of any such payments by the municipality.

3. If the plan for the project is approved after August 28, 2003, any payments in lieu of taxes expected to be made by any lessee of the project shall be applied in accordance with this section. The lessee may reimburse the municipality for its actual costs of issuing the bonds and

administering the plan. All amounts paid in excess of such actual costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer or other financial officer to each school district, **junior college district,** county, or city in proportion to the current ad valorem tax levy of each school district, **junior college district,** county, or city**; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, if the plan for the project is approved after May 15, 2005, such amounts shall be disbursed by the municipality's treasurer or other financial officer to each affected taxing entity in proportion to the current ad valorem tax levy of each affected taxing entity**.

100.059. NOTICE OF PROPOSED PROJECT FOR INDUSTRIAL DEVELOPMENT, WHEN, CONTENTS — LIMITATION ON INDEBTEDNESS, INCLUSIONS — APPLICABILITY, LIMITATION. — 1. The governing body of any municipality proposing a project for industrial development which involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality shall, not less than twenty days before approving the plan for a project as required by section 100.050, provide notice of the proposed project to the county in which the municipality is located and any school district that is a school district, **junior college district,** county, or city**; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, if the plan for the project is approved after May 15, 2005, such notice shall be provided to all affected taxing entities in the county**. Such notice shall include the information required in section 100.050, shall state the date on which the governing body of the municipality will first consider approval of the plan, and shall invite such school districts, **junior college districts,** counties, or cities to submit comments to the governing body and the comments shall be fairly and duly considered.

2. Notwithstanding any other provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to section 26(b), article VI, Constitution of Missouri, 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.

3. The county assessor shall include the current assessed value of all property within the school district, **junior college district,** county, or city 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 section 26(b), article VI, Constitution of Missouri.

4. This section is applicable only if the plan for the project is approved after August 28, 2003.

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and

members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; or

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities **[**or county jails**]** on a part-time basis**, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis**;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, dental, or nursing treatment within the scope of his license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such treatment is restricted to primary care and preventive health services, provided that such treatment shall not include the performance of an abortion, and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. Medicaid or medicare payments for primary care and preventive health services provided by a physician, dentist, physician assistant, dental hygienist, or nurse who volunteers at a free health clinic is not compensation for the purpose of this section if the total payment is assigned to the free health clinic. For the purposes of the section, "free health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501

(c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician, dentist, physician assistant, dental hygienist, or nurse shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph; or

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(4) Staff employed by the juvenile division of any judicial circuit; or

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), and (e) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 6 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any physician, dentist, physician assistant, dental hygienist, or nurse for coverage concerning his or her private practice and assets shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. However, a physician, nurse, dentist, physician assistant, or dental hygienist may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered

under paragraphs (c), (d), and (e) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 6 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a physician, dentist, physician assistant, dental hygienist, or nurse described in paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs.

6. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

7. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of notary public **or city attorney in cities of the third classification or cities of the fourth classification**;

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

(24) "Relative within the first degree by consanguinity or affinity", a spouse, parent, or child of a person;

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

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

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

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

115.019. VOTERS MAY PETITION TO ESTABLISH A BOARD OF ELECTION COMMISSIONERS, PROCEDURE — FORM OF PETITION. — 1. Any group of registered voters from any county of the first **[**class**] classification** not having a board of election commissioners may circulate a petition for the formation of a board.

2. The petition shall be signed by the number of registered voters in the county equal to at least fifteen percent of the total votes cast in the county for governor at the last gubernatorial election.

3. Petitions proposing the formation of a board of election commissioners in any county of the first **[**class**] classification** shall be filed with the election authority of the county not later than 5:00 p.m. on the thirteenth Tuesday preceding a general election.

4. Each petition for the formation of a board of election commissioners shall consist of sheets of uniform size. The space for signatures on either side of a petition page shall be no larger than eight and one-half by fourteen inches, and each page shall contain signatures of registered voters from only one county. Each page of each petition for the formation of a board of election commissioners shall be in substantially the following form:

To the Honorable ....., county clerk of ..... County:

We, the undersigned, citizens and registered voters of ..... County, respectfully order that the following question be placed on the official ballot, for acceptance or rejection, at the next general election to be held on the ..... day of ....., ...:

"Should a board of election commissioners be established in ..... County to assume responsibility for the registration of voters and the conduct of elections?";

and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County; my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI,
COUNTY OF .....

I, ..., a resident of the state of Missouri, being first duly sworn, say (print or type names of signers)

		REGISTERED VOTING			
NAME (Signature)	DATE SIGNED	ADDRESS (Street)(City, Town or Village)	ZIP CODE	CONG DIST.	NAME Printed or Typed)

(Here follow numbered lines for signers)

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and ..... County.

.....
Signature of Affiant
(Person obtaining signatures)
.....
Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

.....
Signature of Notary

Notary Public (Seal)
My commission expires .....
If this form is followed substantially, it shall be sufficient, disregarding clerical and merely technical errors.

5. The validity of each petition filed pursuant to provisions of this section shall be determined in the manner provided for new party and independent candidate petitions in sections 115.333, 115.335 and 115.337.

6. Upon the filing of a valid petition for the formation of a board of election commissioners **or upon a majority vote of the county commission in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants**, it shall be the duty of the election authority to have the following question placed on the official ballot, in the same manner other questions are placed, at the next general election:

"Should a board of election commissioners be established in ..... County to assume responsibility for the registration of voters and the conduct of elections?"

7. The votes for and against the question shall be counted and certified in the same manner as votes on other questions.

8. If the question is approved by a majority of the voters at the election, a board of election commissioners shall be appointed as provided in this subchapter and shall have the same rights and responsibilities provided by law for all boards of election commissioners.

9. Any person who is a registered voter of a county of the first **[**class**] classification** not having a board of election commissioners may sign a petition for the formation of a board in the county. Any person who signs a name other than the person's own to any petition or knowingly signs the person's name more than once to the same petition or who knows the person is not a registered voter at the time of signing such petition, or any officer or person willfully violating any provision of this section shall be guilty of a class two election offense.

115.348. CONVICTION OR PLEA UNDER FEDERAL LAWS, DISQUALIFICATION FOR ELECTIVE PUBLIC OFFICE. — No person shall qualify as a candidate for elective public office in the state of Missouri who has been convicted of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America.

135.010. DEFINITIONS. — As used in sections 135.010 to 135.030 the following words and terms mean:

(1) "Claimant", a person or persons claiming a credit under sections 135.010 to 135.030. If the persons are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a property tax credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year, or the claimant or

spouse is a veteran of any branch of the armed forces of the United States or this state who became one hundred percent disabled as a result of such service, or the claimant or spouse is disabled as defined in subdivision (2) of this section, and such claimant or spouse provides proof of such disability in such form and manner, and at such times, as the director of revenue may require, or if the claimant has reached the age of sixty on or before the last day of the calendar year and such claimant received surviving spouse Social Security benefits during the calendar year and the claimant provides proof, as required by the director of revenue, that the claimant received surviving spouse Social Security benefits during the calendar year for which the credit will be claimed. **A claimant shall not be allowed a property tax credit if the claimant filed a valid claim for a credit under section 137.106 in the year following the year for which the property tax credit is claimed.** The residency requirement shall be deemed to have been fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax credit if a person of the age of sixty-five years or older who would have otherwise met the requirements for a property tax credit dies before the last day of the calendar year. The residency requirement shall also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who would have otherwise met the requirements for a property tax credit but who dies before the last day of the calendar year;

(2) "Disabled", the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A claimant shall not be required to be gainfully employed prior to such disability to qualify for a property tax credit;

(3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length, of a homestead during the calendar year, exclusive of charges for health and personal care services and food furnished as part of the rental agreement, whether or not expressly set out in the rental agreement. If the director of revenue determines that the landlord and tenant have not dealt at arm's length, and that the gross rent is excessive, then he shall determine the gross rent based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually paid prior to the date a return is filed. The director of revenue may prescribe regulations requiring a return of information by a landlord receiving rent, certifying for a calendar year the amount of gross rent received from a tenant claiming a property tax credit and shall, by regulation, provide a method for certification by the claimant of the amount of gross rent paid for any calendar year for which a claim is made. The regulations authorized by this subdivision may require a landlord or a tenant or both to provide data relating to health and personal care services and to food. Neither a landlord nor a tenant may be required to provide data relating to utilities, furniture, home furnishings or appliances;

(4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. It may consist of part of a multidwelling or multipurpose building and part of the land upon which it is built. "Owned" includes a vendee in possession under a land contract and one or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant actually in possession if he was the immediate former owner of record, if a lineal descendant is presently the owner of record, and if the claimant actually pays all taxes upon the property. It may include a mobile home;

(5) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo, less two thousand dollars as an exemption for the claimant's spouse residing at the same address, and increased, where necessary, to reflect the following:

(a) Social Security, railroad retirement, and veterans payments and benefits unless the claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one hundred percent service-connected, disabled veteran. The one hundred percent service-connected disabled veteran shall not be required to list veterans payments and benefits;

(b) The total amount of all other public and private pensions and annuities;

(c) Public relief, public assistance, and unemployment benefits received in cash, other than benefits received under this chapter;

(d) No deduction being allowed for losses not incurred in a trade or business;

(e) Interest on the obligations of the United States, any state, or any of their subdivisions and instrumentalities;

(6) "Property taxes accrued", property taxes paid, exclusive of special assessments, penalties, interest, and charges for service levied on a claimant's homestead in any calendar year. Property taxes shall qualify for the credit only if actually paid prior to the date a return is filed. The director of revenue shall require a tax receipt or other proof of property tax payment. If a homestead is owned only partially by claimant, then "property taxes accrued" is that part of property taxes levied on the homestead which was actually paid by the claimant. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of revenue for collection. If a claimant owns a homestead part of the preceding calendar year and rents it or a different homestead for part of the same year, "property taxes accrued" means only taxes levied on the homestead both owned and occupied by the claimant, multiplied by the percentage of twelve months that such property was owned and occupied as the homestead of the claimant during the year. When a claimant owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable to those several properties occupied by the claimant as a homestead for the year. If a homestead is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part;

(7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by a claimant and spouse in the calendar year.

136.010. DIVISION TO COLLECT ALL STATE REVENUES, EXCEPTIONS, REPORT. — 1. The division of taxation and collection shall collect all taxes, licenses and fees payable to the state, except that county **[**and township**]** collectors **and collector-treasurers** shall collect the state tax on tangible property, which shall be transmitted promptly to the division of taxation and collection.

2. All money payable to the state, including gifts, escheats, penalties, federal funds, and money from every other source payable to the state shall be promptly transmitted to the division of taxation and collection; provided that all such money payable to 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.

3. The director of revenue in cooperation with the state treasurer shall develop a uniform system of summary reporting on income, expenditures and balances of the excepted funds in subsection 2 of this section, and for all other funds handled by state agencies, institutions or state officials in their official duties pursuant to any law or administrative practice but not deposited with the state treasurer. Such forms shall be made available to all agencies, institutions and officials responsible for such funds. Said agencies and officials shall annually file a complete summary report on the uniform forms provided by the director of revenue by August first for the fiscal period July first to June thirtieth just passed. These reports shall be compiled by the director of revenue for inclusion in the annual report of the state treasurer and director of revenue showing balances, income, expenditures, asset value and form of all assets held by the account.

136.160. ACCOUNTS AND VOUCHERS TO BE EXHIBITED, WHEN. — All officers and others bound by law to pay money directly to the director of revenue, or the department of revenue shall exhibit their accounts and vouchers to the director of revenue on or before the thirty-first day of December, to be adjusted and settled, except the county **[**and township**]** collectors of revenue **and collector-treasurers**, who shall, immediately after their final settlement with the county commission on the first Monday in March in each year, exhibit their accounts and vouchers to the director of revenue for the amount due the state to be adjusted and settled.

137.071. BUSINESS PERSONAL PROPERTY, EXCLUDES FROM TOTAL ASSESSED VALUATION A PORTION OF ASSESSED VALUATION FOR PROPERTY SUBJECT TO APPROVAL. — Prior to setting its rate or rates as required by section 137.073, each taxing authority shall exclude from its total assessed valuation seventy-two percent of the total amount of assessed value of business personal property that is the subject of an appeal at the state tax commission or in a court of competent jurisdiction in this state. This exclusion shall only apply to the portion of the assessed value of business personal property that is disputed in the appeal, and shall not exclude any portion of the same property that is not disputed. If the taxing authority uses a multi-rate approach as provided in section 137.073, this exclusion shall be made from the personal property class. The state tax commission shall provide each taxing authority with the total assessed value of business personal property within the jurisdiction of such taxing authority for which an appeal is pending no later than August twentieth of each year. Whenever any appeal is resolved, whether by final adjudication or settlement, and the result of the appeal causes money to be paid to the taxing authority, the taxing authority shall not be required to make an additional adjustment to its rate or rates due to such payment once the deadline for setting its rates, as provided by this chapter, has passed in a taxable year, but shall adjust its rate or rates due to such payment in the next rate setting cycle to offset the payment in the next taxable year. For the purposes of this section, the term "business personal property", means tangible personal property which is used in a trade or business or used for production of income and which has a determinable life of longer than one year except that supplies used by a business shall also be considered business personal property, but shall not include livestock, farm machinery, property subject to the motor vehicle registration provisions of chapter 301, RSMo, property subject to the tables provided in section 137.078, the property of rural electric cooperatives under chapter 394, RSMo, or property assessed by the state tax commission under chapters 151, 153, and 155, RSMo, section 137.022, and sections 137.1000 to 137.1030.

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

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

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

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

tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, **or as excess home dock city or county fees as provided in subsection 4 of section 313.820, RSMo,** in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

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

of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

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

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

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

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

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction

and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

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

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

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

be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate.

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

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one-hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

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

certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

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

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

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

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

11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section

536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

137.078. DEPRECIATION SCHEDULES FOR BROADCASTING EQUIPMENT, DEFINITIONS — TRUE VALUE IN MONEY, HOW DETERMINED — TABLES. — 1. For purposes of this section, the following terms shall mean:

(1) "Analog equipment", all depreciable items of tangible personal property that are used directly or indirectly in broadcasting television shows **[**and**], radio programs, or** commercials through the use of analog technology**, including studio broadcast equipment, transmitter and antenna equipment, and broadcast towers**;

(2) "Applicable analog fraction", a fraction, the numerator of which is the total number of analog television sets in the United States for the immediately preceding calendar year and the denominator of which is an amount representing the total combined number of analog and digital television sets in the United States for the immediately preceding calendar year. The applicable analog fraction will be determined on an annual basis by the Missouri Broadcasters Association;

(3) "Applicable analog percentage", the following percentages for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
				1%
2006				1%
2005			25%	1%
2004		50%	25%	1%
2003	75%	50%	25%	1%
2002	75%	50%	25%	1%
2001	75%	50%	25%	1%
2000	75%	50%	25%	1%
1999	75%	50%	25%	1%
1998	75%	50%	25%	1%
Prior	75%	50%	25%	1%;

(4) "Applicable digital fraction", a fraction, the numerator of which is the total number of digital television sets in the United States for the immediately preceding calendar year and the denominator of which is an amount representing the total combined number of analog and digital television sets in the United States for the immediately preceding calendar year. The applicable digital fraction will be determined on an annual basis by the Missouri Broadcasters Association;

(5) **"Broadcast towers", structures with a function that includes holding television or radio broadcasters' antennae, repeaters, or translators at the height required or needed to transmit over-the-air signals or enhance the transmission of the signals. This term also includes the structures at least partially used by television broadcasters or radio broadcasters to provide weather radar information to the public. For property tax assessment purposes, broadcast towers are classified as tangible personal property;**

(6) "Digital equipment", all depreciable items of tangible personal property that are used directly or indirectly in broadcasting television shows **[**and**], radio programs, or** commercials through the use of digital technology**, including studio broadcast equipment, transmitter and antenna equipment, and broadcast towers;**

(7) "Radio broadcasters", all businesses that own, lease, or operate radio broadcasting stations that transmit radio shows and commercials and that are required to be licensed by the Federal Communications Commission to provide such services;

(8) "Radio broadcasting equipment", both analog equipment and digital equipment;

[(6)**] (9)** "Television broadcasters", all businesses that own, lease, or operate television broadcasting stations that transmit television shows and commercials and that are required to be licensed by the Federal Communications Commission to provide such services;

[(7)**] (10)** "Television broadcasting equipment", both analog equipment and digital equipment**;**

(11) "Transmitter and antenna equipment", equipment with functions that include transmitting signals from broadcast studios by increasing the power, tuning signals to the frequency allowed by regulatory authorities, and broadcasting signals to the public for television broadcasters or radio broadcasters;

(12) "Studio broadcast equipment", studio equipment that receives, produces, modifies, controls, measures, modulates, adds to or subtracts from, or enhances signals in the process that results in over-the-air signals for television broadcasters or radio broadcasters.

2. In response to recent action by the Federal Communications Commission, as described by the commission in the fifth report and order, docket number 97-116, for purposes of assessing all items of television broadcasting equipment that are owned and used by television broadcasters for purposes of broadcasting television shows and commercials:

(1) The true value in money of all analog equipment shall be determined by depreciating the historical cost of such property using the depreciation tables provided in subdivision (1) of subsection 3 of this section and multiplying the results by the applicable analog percentage. The result of the second computation is multiplied by the applicable analog fraction to determine the true value in money of the analog equipment; and

(2) The true value in money of all digital equipment shall be determined by depreciating the historical cost of such property using the depreciation tables provided in subdivision (2) of subsection 3 of this section and multiplying the results by the applicable digital fraction to determine the true value in money of the digital equipment.

3. For purposes of subsection 2 of this section, the depreciation tables for determining the fair value in money of television broadcasting equipment are as follows:

(1) For analog equipment, the following depreciation tables will apply for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
2006				65%
2005			65%	45%
2004		65%	45%	30%
2003	65%	45%	30%	20%
2002	45%	30%	20%	10%
2001	30%	20%	10%	5%
2000	20%	10%	5%	5%
1999	10%	5%	5%	5%
1998	5%	5%	5%	5%
Prior	5%	5%	5%	5%;

(2) For digital equipment, the following depreciation tables will apply for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
2006				65%
2005			65%	45%
2004		65%	45%	30%
2003	65%	45%	30%	20%
2002	45%	30%	20%	10%
2001	30%	20%	10%	5%

2000	20%	10%	5%	5%
1999	10%	5%	5%	5%
1998	5%	5%	5%	5%
Prior	5%	5%	5%	5%.

4. Beginning January 1, 2008, for purposes of assessing all items of television broadcasting equipment that are owned and used by television broadcasters for purposes of broadcasting television shows and commercials, the following depreciation tables will be used to determine their true value in money. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

Year	Studio Broadcast Equipment	Transmitter and Antenna Equipment	Broadcast Tower
1	6 5%	91%	96%
2	4 5%	82%	93%
3	3 0%	73%	89%
4	2 0%	64%	86%
5	1 0%	55%	82%
6	5%	46%	79%
7		37%	75%
8		28%	72%
9		19%	68%
10		10%	65%
11			61%
12			58%
13			54%
14			51%
15			47%
16			44%
17			40%
19			33%
20			30%
21			27%
22			24%
23			21%
24			18%
25			15%.

Television broadcasting equipment in all recovery periods shall continue in subsequent years to have the depreciation percentage last listed in the appropriate column so long as it is owned or held by the taxpayer.

5. Effective January 1, 2006, for purposes of assessing all items of radio broadcasting equipment that are owned and used by radio broadcasters for purposes of broadcasting radio programs and commercials, the following depreciation tables will be used to determine their true value in money. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

Year	Studio Broadcast Equipment	Transmitter and Antenna Equipment	Broadcast Tower
1	6 5%	91%	96%

2	**4**	**5%**	**82%**	**93%**
3	**3**	**0%**	**73%**	**89%**
4	**2**	**0%**	**64%**	**86%**
5	**1**	**0%**	**55%**	**82%**
6		**5%**	**46%**	**79%**
7			**37%**	**75%**
8			**28%**	**72%**
9			**19%**	**68%**
10			**10%**	**65%**
11				**61%**
12				**58%**
13				**54%**
14				**51%**
15				**47%**
16				**44%**
17				**40%**
19				**33%**
20				**30%**
21				**27%**
22				**24%**
23				**21%**
24				**18%**
25				**15%.**

Radio broadcast equipment in all recovery periods shall continue in subsequent years to have the depreciation percentage last listed in the appropriate column so long as it is owned or held by the taxpayer.

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;

(7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision **or to any religious, educational, or charitable organization which has obtained an exemption from the payment of federal income taxes, provided the motor vehicles are used exclusively for religious, educational, or charitable purposes**; and

(8) Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, to another for which or whom such property is not exempt when immediately after the

lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the interstate compact agency. Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:

(a) The right of the interstate compact agency to use, control, and possess the property is terminated;

(b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and

(c) There are no provisions for reverter of the property within the limitation period for reverters.

137.106. HOMESTEAD PRESERVATION — DEFINITIONS — HOMESTEAD EXEMPTION CREDIT RECEIVED, WHEN, APPLICATION PROCESS — ASSESSOR'S DUTIES — DEPARTMENT OF REVENUE DUTIES — EXEMPTION LIMIT SET, WHEN, HOW APPLIED — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section may be known and may be cited as "The Missouri Homestead Preservation Act".

2. As used in this section, the following terms shall mean:

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Disabled", as such term is defined in section 135.010, RSMo;

(4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to subsection 4 of this section; in the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to subsection 4 of this section did not exceed the maximum upper limit; **in the case of property held in trust, the eligible owner and recipient of the tax credit shall be the trust itself provided the previous owner of the homestead or the previous owner's spouse: is the settlor of the trust with respect to the homestead; currently resides in such homestead; and but for the transfer of such property would have satisfied the age, ownership, and maximum upper limit requirements for income as defined in subdivisions 7 and 8 of this subsection;** no individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year, **[**not including the year in which the application was completed,**]** shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person **[**qualifies**] filed a valid claim** for the senior citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value**, except where an eligible owner of the property has made such improvements to accommodate a disabled person**;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not including

improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection **[**8**] 10** of this section**. For applications filed in 2005 or 2006, the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005. For applications filed between April 1, 2005 and September 30, 2006, an eligible owner, who otherwise satisfied the requirements of this section, shall not apply for the homestead exemption credit more than once during such period. For applications filed after 2006, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application**;

(7) "Income", federal adjusted gross income**, and in the case of ownership of the homestead by trust, the income of the settlor applicant shall be imputed to the income of the trust for purposes of determining eligibility with regards to the maximum upper limit**;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. **If application is made in 2005,** any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property; and

(4) That any improvements made to the homestead**, not made to accommodate a disabled person,** did not total more than five percent of the prior year appraised value.

The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. **If application is made in 2005,** the assessor, upon **[**receiving**] request for** an application, shall:

(1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;

(2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks **for inclusion on the form**;

(3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and

(4) Sign the application, certifying the accuracy of the assessor's entries.

6. **If application is made after 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application. Applications may be completed between April 1 and September 30 of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided by the department. Forms also shall be made available on the department's internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:**

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property;

(4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value; and

(5) The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the three prior tax years.

7. Each applicant shall send the application to the department by September thirtieth of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

[7.**] 8. If application is made in 2005,** upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the tax year that ended immediately prior. Such eligible owners shall be disqualified from receiving the credit in the current tax year.

[8.**] 9. If application is made after 2005, upon receipt of the applications, the department shall calculate the tax liability, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income is verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.**

10. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all

verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

[9.**] 11. [**If, in any given year,**] For applications made in 2005,** the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

[10.**] 12.** After setting the homestead exemption limit **for applications made in 2005**, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation **and assessment fund allocation** to the county collector's funds of each county **or the treasurer ex officio collector's fund in counties with a township form of government** where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector **or the treasurer ex officio collector in counties with a township form of government**, shall be deposited in the county collector's fund of a county **or the treasurer ex officio collector's fund** or may be sent by mail to the collector of a county**, or the treasurer ex officio collector in counties with a township form of government,** not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues **by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government**, so as to exactly offset each homestead exemption credit being issued. **In counties with a township form of government, the county clerk shall provide the treasurer ex officio collector a summary of the homestead exemption credit for each township for the purpose of distributing the total homestead exemption credit to each township collector in a particular county.**

[11.**] 13. If, in any given year after 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. If no appropriation**

is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

14. After setting the homestead exemption limit for applications made after 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex-officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

15. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

[12.**]** **16.** In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to **[**the mailing of the tax bill**]** **January first of the year in which the credit would otherwise be applied**, the credit shall be void and any corresponding moneys, pursuant to subsection 10 of this section, shall lapse to the state to be credited to the general revenue fund. **In the event the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government determines prior to issuing the credit that the individual is not an eligible owner because the individual did not pay the prior three years' property tax liability in full, the credit shall be void and any corresponding moneys, under subsection 11 of this section, shall lapse to the state to be credited to the general revenue fund.**

[13.**]** **17.** This section shall apply to all tax years beginning on or after January 1, 2005. This subsection shall become effective June 28, 2004.

[14.**]** **18.** In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

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

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

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

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

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

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

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

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

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

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

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

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

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

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

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

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

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

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

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

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

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

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

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax **or license** due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank**, processor, or issuer** for its service. **A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.**

15. The provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, shall become effective January 1, 2003, for any taxing jurisdiction within a county with a charter form of government with greater than one million inhabitants, and the provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, shall become effective October 1, 2004, for all taxing jurisdictions in this state. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by this act, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150

of the ninety-first general assembly, second regular session and section 137.073 as modified by this act, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate **[**the separate rates for the three subclasses of real property and the aggregate class of personal property as required by section 137.073, provided that such political subdivision shall also provide a single blended rate, in accordance with the procedure for determining a blended rate for school districts in subdivision (1) of subsection 6 of section 137.073. Such blended rate shall be used for the portion of such political subdivision that is situated within any county that has opted out**] a single tax rate as in effect prior to the enactment of house bill number 1150 of the ninety-first general assembly, second regular session**. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by this act, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

137.122. DEPRECIABLE TANGIBLE PERSONAL PROPERTY — DEFINITIONS — STANDARDIZED SCHEDULE TO BE USED — VALUATION TABLE — EXCEPTIONS. — 1. As used in this section, the following terms mean:

(1) "Business personal property", tangible personal property which is used in a trade or business or used for production of income and which has a determinable life of longer than one year except that supplies used by a business shall also be considered business personal property, but shall not include livestock, farm machinery, grain and other agricultural crops in an unmanufactured condition, property subject to the motor vehicle registration provisions of chapter 301, RSMo, property assessed under section 137.078, the property of rural electric cooperatives under chapter 394, RSMo, or property assessed by the state tax commission under chapters 151, 153, and 155, RSMo, section 137.022, and sections 137.1000 to 137.1030;

(2) "Class life", the class life of property as set out in the federal Modified Accelerated Cost Recovery System life tables or their successors under the Internal Revenue Code as amended;

(3) "Economic or functional obsolescence", a loss in value of personal property above and beyond physical deterioration and age of the property. Such loss may be the result of economic or functional obsolescence or both;

(4) "Original cost", the price the current owner, the taxpayer, paid for the item without freight, installation, or sales or use tax. In the case of acquisition of items of personal property as part of an acquisition of an entity, the original cost shall be the historical cost of those assets remaining in place and in use and the placed in service date shall be the date of acquisition by the entity being acquired;

(5) "Placed in service", property is placed in service when it is ready and available for a specific use, whether in a business activity, an income-producing activity, a tax-exempt activity, or a personal activity. Even if the property is not being used, the property is in service when it is ready and available for its specific use;

(6) "Recovery period", the period over which the original cost of depreciable tangible personal property shall be depreciated for property tax purposes and shall be the same as the recovery period allowed for such property under the Internal Revenue Code.

2. To establish uniformity in the assessment of depreciable tangible personal property, each assessor shall use the standardized schedule of depreciation in this section to determine the assessed valuation of depreciable tangible personal property for the purpose of estimating the value of such property subject to taxation under this chapter.

3. For purposes of this section, and to estimate the value of depreciable tangible personal property for mass appraisal purposes, each assessor shall value depreciable tangible personal property by applying the class life and recovery period to the original cost of the property according to the following depreciation schedule. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

Year	Recovery Period in Years					
	3	5	7	10	15	20
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	5.00	24.99	42.88	56.81	69.25	76.18
5		10.00	30.63	48.07	62.32	70.46
6			18.38	39.33	56.09	65.18
7			10.00	30.59	50.19	60.29
8				21.85	44.29	55.77
9				15.00	38.38	51.31
10					32.48	46.85
11					26.57	42.38
12					20.67	37.92
13					15.00	33.46
14						29.00
15						24.54
16						20.08
17						20.00

Depreciable tangible personal property in all recovery periods shall continue in subsequent years to have the depreciation factor last listed in the appropriate column so long as it is owned or held by the taxpayer. The state tax commission shall study and analyze the values established by this method of assessment and in every odd-numbered year make recommendations to the joint committee on tax policy pertaining to any changes in this methodology, if any, that are warranted.

4. Such estimate of value determined under this section shall be presumed to be correct for the purpose of determining the true value in money of the depreciable tangible personal property, but such estimation may be disproved by substantial and persuasive evidence of the true value in money under any method determined by the state tax commission to be correct, including, but not limited to, an appraisal of the tangible personal property specifically utilizing generally accepted appraisal techniques, and contained in a narrative appraisal report in accordance with the Uniform Standards of Professional Appraisal Practice or by proof of economic or functional obsolescence or evidence of excessive physical deterioration. For purposes of appeal of the provisions of this section, the salvage or scrap value of depreciable tangible personal property may only be considered if the property is not in use as of the assessment date.

5. This section shall not apply to business personal property placed in service before January 2, 2006.

6. The provisions of this section are not intended to modify the definition of tangible personal property as defined in section 137.010.

137.130. ASSESSOR TO MAKE PHYSICAL INSPECTION, WHEN — ASSESSMENT. — Whenever there shall be any taxable personal property in any county, and from any cause no list thereof shall be given to the assessor in proper time and manner, **or whenever the assessor has**

insufficient information to assess any real property, the assessor **or an employee of the assessor** shall **[**make out the list**] assess the property based upon a physical inspection [**, on the assessor's own view,**]** or on the best information the assessor can obtain; and for that purpose the assessor **or an employee of the assessor** shall have lawful right to enter into any lands and make any examination and search which may be necessary **to assess such real property only when the assessor is entering because the assessor has insufficient information to assess such real property or to assess such personal property only when the assessor is entering because no list of taxable personal property has been given**, and may examine any person upon oath touching the same. **The assessor or an employee of the assessor shall not enter the interior of any structure on any real property as part of the inspection to assess such property without permission.** The assessor shall list, assess and cause taxes to be imposed upon omitted taxable personal property in the current year and in the event personal property was also subject to taxation in the immediately preceding three years, but was omitted, the assessor shall also list, assess and cause taxes to be imposed upon such property.

[137.130. ASSESSOR TO MAKE PHYSICAL INSPECTION, WHEN — ASSESSMENT. — Whenever there shall be any taxable personal property in any county, and from any cause no list thereof shall be given to the assessor in proper time and manner, the assessor shall make out the list, on the assessor's own view, or on the best information the assessor can obtain; and for that purpose the assessor shall have lawful right to enter into any lands and make any examination and search which may be necessary, and may examine any person upon oath touching the same. The assessor shall list, assess and cause taxes to be imposed upon omitted taxable personal property in the current year and in the event personal property was also subject to taxation in the immediately prior year, but was omitted, the assessor shall also list, assess and cause taxes to be imposed upon such property.**]**

137.465. COUNTY CLERK TO SUBMIT LISTS OF PROPERTY — ABSTRACTS OF ALL REAL PROPERTY. — 1. It shall be the duty of the county clerk of each county in this state, that has or hereafter may adopt township organization, to **[**make out**]** annually **submit**, for the use of the **[**township collector**] collector-treasurer** of each **[**township**] county**, correct lists of the property assessed, which lists shall be in alphabetical order, the names of the persons owing tax on personal property in **[**each collector's district**] the county**, the aggregate value of such property assessed to each person, and the amount of taxes due thereon.

2. **[**He**] The county clerk** shall also **[**make out**] submit** for the use of the **[**township collector**] collector-treasurer** an abstract of all real property which is assessed, in numerical order, which shall show the name or names, if known, of the person or persons to whom each tract or lot is assessed, and the value of each tract or lot, and the amount of taxes due thereon, which list shall be made out in strict conformity with the forms and instructions furnished by the state tax commission.

137.585. TOWNSHIP SPECIAL ROAD AND BRIDGE TAX, HOW LEVIED, COLLECTED AND DISBURSED. — 1. In addition to other levies authorized by law, the township board of directors of any township in their discretion may levy an additional tax not exceeding thirty-five cents on each one hundred dollars assessed valuation in their township for road and bridge purposes. Such tax shall be levied by the township board, to be collected by the **[**township collector**] collector-treasurer** and turned into the county treasury, where it shall be known and designated as a special road and bridge fund.

2. The county commission of any such county may in its discretion order the county treasurer **or collector-treasurer** to retain an amount not to exceed five cents on the one hundred dollars assessed valuation out of such special road and bridge fund and to transfer the same to the county special road and bridge fund; and all of said taxes over the amount so ordered to be retained by the county shall be paid to the treasurers of the respective townships from which it

came as soon as practicable after receipt of such funds, and shall be designated as a special road and bridge fund of such township and used by said townships only for road and bridge purposes, except that amounts collected within the boundaries of road districts formed in accordance with the provisions of sections 233.320 to 233.445, RSMo, shall be paid to the treasurers of such road districts; provided that the amount retained, if any, by the county shall be uniform as to all such townships levying and paying such tax into the county treasury; provided further, that the proceeds of such fund may be used in the discretion of the township board of directors in the construction and maintenance of roads and in improving and repairing any street in any incorporated city, town or village in the township, if said street shall form a part of a continuous highway of the township running through said city, town or village.

137.720. PERCENTAGE OF AD VALOREM PROPERTY TAX COLLECTIONS TO BE DEDUCTED FOR DEPOSIT IN COUNTY ASSESSMENT FUND — ADDITIONAL DEDUCTION (ST. LOUIS CITY AND ALL COUNTIES). — 1. A percentage of all ad valorem property tax collections allocable to each taxing authority within the county and the county shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750. The percentage shall be one-half of one percent for all counties of the first and second classification and cities not within a county and one percent for counties of the third and fourth classification.

2. For counties of the first classification, counties with a charter form of government, and any city not within a county, an additional one-eighth of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, and for counties of the second, third, and fourth classification, an additional one-quarter of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, provided that such additional amounts shall not exceed one hundred thousand dollars in any year for any county of the first classification and any county with a charter form of government and fifty thousand dollars in any year for any county of the second, third, or fourth classification.

3. The county shall bill any taxing authority collecting its own taxes. The county may also provide additional moneys for the fund. To be eligible for state cost-share funds provided pursuant to section 137.750, every county shall provide from the county general revenue fund, an amount equal to an average of the three most recent years of the amount provided from general revenue to the assessment fund**; provided, however, that capital expenditures and equipment expenses identified in a memorandum of understanding signed by the county's governing body and the county assessor prior to transfer of county general revenue funds to the assessment fund shall be deducted from a year's contribution before computing the three-year average**, except that a lesser amount shall be acceptable if unanimously agreed upon by the county assessor, **the** county governing body**,** and the state tax commission. The county shall deposit the county general revenue funds in the assessment fund as agreed to in its original or amended maintenance plan, state reimbursement funds shall be withheld until the amount due is properly deposited in such fund.

4. Four years following the effective date, the state tax commission shall conduct a study to determine the impact of increased fees on assessed valuation.

5. Any increase to the portion of property tax collections deposited into the county assessment funds provided for in subsection 2 of this section shall be disallowed in any year in which the state tax commission certifies an equivalent sales ratio for the county of less than or equal to thirty-one and two-thirds percent pursuant to the provisions of section 138.395, RSMo.

6. The provisions of subsections 2, 4, and 5 of this section shall expire on December 31, 2009.

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

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

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

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

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

4. The provisions of subsection 3 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

139.040. ACCEPTABLE MEDIUM OF EXCHANGE IN PAYMENT OF TAXES. — [Taxes may be paid in any acceptable medium of exchange. State warrants shall be received in payment of state taxes. Jury certificates of the county shall be received in payment of county taxes. Past due bonds or coupons of any county, city, township, drainage district, levee district or school district shall be received in payment of any tax levied for the payment of bonds or coupons of the same issue, but not in payment of any tax levied for any other purpose. Any warrant, issued by any county or city, when presented by the legal holder thereof, shall be received in payment of any tax, license, assessment, fine, penalty or forfeiture existing against the holder and accruing to the county or city issuing the warrant; but no such warrant shall be received in payment of any tax unless it was issued during the year for which the tax was levied, or there is an excess of revenue for the year in which the warrant was issued over and above the expenses of the county or city for that year.**] A county or city collector, or other collection authority charged with the duty of tax or license collection is authorized but not obligated to accept cash, personal check, business check, money order, credit card, or electronic transfers of funds for any tax or license payable to the county. The collection authority may refuse to accept any medium of exchange at the discretion of the collection authority. Refusal by the collection authority to accept alternative means of payment beyond those approved by the collection authority shall not relieve an obligor of the obligor's tax or license obligation nor shall it delay the levy of interest and penalty on any overdue unpaid tax or license obligation pending submission of a form or payment approved by the collection authority.**

139.055. TAX PAID BY CREDIT CARD OR ELECTRONIC TRANSFER — FEE. — Any county may accept payment by credit card or **[**automatic bank**] electronic** transfers of funds for any tax **or license** payable to the county. A county collector shall not be required to accept payment by credit card if the credit card **bank, processor, or** issuer would charge the county a fee for such

payment. However, a county may accept payment by credit card and charge the person making such payment by credit card a fee equal to the fee charged the county by the credit card **bank, processor,** issuer for such payment. **A county may accept payment by electronic transfer of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.**

139.120. SEIZURE AND SALE OF PERSONAL PROPERTY — DUTY OF SHERIFF. — 1. The collector **or collector-treasurer in a county having township organization** shall diligently endeavor and use all lawful means to collect all taxes which they are required to collect in their respective counties, and to that end they shall have the power to seize and sell the goods and chattels of the person liable for taxes, in the same manner as goods and chattels are or may be required to be seized and sold under execution issued on judgments at law, and no property whatever shall be exempt from seizure and sale for taxes due on lands or personal property; provided, that no such seizure or sale for taxes shall be made until after the first day of October of each year, and the collector **or collector-treasurer** shall not receive a credit for delinquent taxes until **[**he**] the collector or collector-treasurer** shall have made affidavit that **[**he**] the collector or collector-treasurer** has been unable to find any personal property out of which to make the taxes in each case so returned delinquent; but no such seizure and sale of goods shall be made until the collector **or collector-treasurer** has made demand for the payment of the tax, either in person or by deputy, to the party liable to pay the same, or by leaving a written or printed notice at his place of abode for that purpose, with some member of the family over fifteen years of age.

2. Such seizure may be made at any time after the first day of October, and before said taxes become delinquent, or after they become delinquent; provided further, that when any person owing personal tax removes from one county in this state to another, it shall be the duty of the county collector, or **[**township collector**] collector-treasurer** as the case may be, of the county from which such person shall move, to send a tax bill to the sheriff of the county into which such person may be found, and on receipt of the same by said sheriff, it shall be **[**his**] the collector's or the collector-treasurer's** duty to proceed to collect said tax bill in like manner as provided by law for the collection of personal tax, for which **[**he**] the collector or the collector-treasurer** shall be allowed the same compensation as provided by law in the collection of executions. It shall be the duty of the sheriff in such case to make due return to the collector **or collector-treasurer** of the county from whence said tax bill was issued, with the money collected thereon.

139.350. COLLECTION OF TAXES — PROCEDURE. — Every **[**ex officio township collector**] collector-treasurer in a county having a township organization**, upon receiving the tax book and warrant from the county clerk, shall proceed in the following manner to collect the same; and **[**he**] the collector-treasurer** shall mail to all resident taxpayers, at least fifteen days prior to delinquent date, a statement of all real and tangible personal property taxes due and assessed on the current tax books in the name of the taxpayers. **[**Collectors**] Collector-treasurers** shall also mail tax receipts for all the taxes received by mail.

139.400. ABATEMENT ON TAX LIST — PROCEDURE. — If the **[**township collector**] collector-treasurer in any county that has adopted township organization** shall be unable to collect any taxes charged in the tax list, by reason of the removal or insolvency of the person to whom such tax may be charged, or on account of any error in the tax list, **[**he**] the collector-treasurer** shall deliver to the county **[**treasurer**] clerk** his **or her** tax book, and shall **[**make out**] submit** and file with said **[**treasurer**] clerk**, at the time of his **or her** settlement, a statement in writing, setting forth the name of the person charged with such tax, the value of the property, and the amount of tax so charged and the cause of the delinquency, and shall make oath before the

county clerk, or some associate circuit judge, that the facts stated in such statement are true and correct, and that the sums mentioned therein remain unpaid, and that **[**he**] the collector-treasurer** used due diligence to collect the same, which oath or affidavit shall be signed by the **[**township collector**] collector-treasurer**; and upon filing said statement, the county **[**treasurer**] clerk** shall allow the **[**township collector**] collector-treasurer** credit for the amount of taxes therein stated, and shall apportion and credit the same on the several funds for which such tax was charged; and when **[**he**] the collector-treasurer** makes settlement with the county commission, such statement shall be a sufficient voucher to entitle **[**him**] the collector-treasurer** to credit for the amount therein stated; but in no case shall any **[**township collector**] collector-treasurer, county clerk**, or county treasurer, be entitled to abatement on the resident tax list until the statement and affidavit aforesaid are filed as required by this chapter.

139.420. COLLECTOR-TREASURER — FINAL SETTLEMENT OF ACCOUNTS. — 1. The **[**township collector of each township**] collector-treasurer of any county that has adopted township organization**, at the term of the county commission to be held on the first Monday in March of each year, shall make a final settlement of **[**his**] the collector-treasurer's** accounts with the county commission for state, county, school and township taxes; produce receipts from the proper officers for all school and township taxes collected by **[**him, less his commission**] the collector-treasurer's**; pay over to the county **[**treasurer and ex officio collector**] treasury** all moneys remaining in his **or her** hands, collected by **[**him**] the collector-treasurer** on state and county taxes; make his **or her** return of all delinquent or unpaid taxes, as required by law, and make oath before the commission that **[**he**] the collector-treasurer** has exhausted all the remedies required by law for the collection of such taxes.

2. On or before the twentieth day of March in each year, **[**he**] the collector-treasurer** shall make a final settlement with the township board.

3. If any **[**township collector**] collector-treasurer** shall fail or refuse to make the settlement required by this section, or shall fail or refuse to pay over the state and county taxes, as provided in this section, the county commission shall attach **[**him**] the collector-treasurer** until **[**he**] the collector-treasurer** shall make such settlement of his **or her** accounts or pay over the money found due from **[**him**] the collector-treasurer**; and the commission shall cause the clerk thereof to notify the director of revenue and the prosecuting attorney of the county at once of the failure of such **[**township collector**] collector-treasurer** to settle his **or her** accounts, or pay over the money found due from **[**him**] the collector-treasurer**, and the director of revenue and the prosecuting attorney shall proceed against such collector in the manner provided in section 139.440, and such collector shall be liable to the penalties provided in section 139.440.

139.430. COLLECTOR-TREASURER — MONTHLY STATEMENTS — DISPOSITION OF COLLECTED MONEYS — COMMISSION. — 1. The **[**township collector**] collector-treasurer in any county that has a township organization**, on or before the **[**fifth**] tenth** day of each month, shall make and file in the office of the county clerk a statement showing the amount of taxes collected by **[**him**] the collector-treasurer** for all purposes during the preceding month, which statement shall be sworn to by such **[**township collector**] collector-treasurer** before the county clerk, or some other officer authorized to administer oaths.

2. On or before the tenth day in each month, the **[**township collector, after deducting his commissions,**] collector-treasurer** shall pay over to the county **[**treasurer and ex officio collector**] treasury** all state and county taxes collected by **[**him**] the collector-treasurer** during the preceding month, as shown by the statement required by this section, and take duplicate receipts therefor, one of which **[**he**] the collector-treasurer** shall retain and the other **[**he**] the collector-treasurer** shall file with the county clerk; and the county clerk shall charge the **[**treasurer**] collector-treasurer** with the amounts so receipted for, to be accounted for at the annual settlement.

3. The [township collector] **collector-treasurer**, in like manner, on or before the twentieth day of each month, shall pay over to the township trustee and ex officio treasurer [after deducting his commission] all township taxes and funds of every kind belonging to the township, collected by [him] **the collector-treasurer** during the preceding month, and take duplicate receipts therefor, one of which [he] **the collector-treasurer** shall retain and the other [he] **the collector-treasurer** shall deposit with the township clerk, who shall charge the township trustee and ex officio treasurer with the amount so receipted.

[4. The township collector shall receive a commission of two and one-half percent on the first forty thousand dollars collected; one percent on the next forty thousand dollars collected; and three-fourths of one percent on the remainder of all moneys collected by him.]

139.440. COLLECTOR-TREASURER — DEFAULT, PENALTIES — CERTIFIED COPY OF STATEMENT. — 1. If any [township collector] **collector-treasurer** shall fail or refuse to file the statement required by section 139.430, or, having filed such statement, shall neglect or refuse to pay over to the county [treasurer and ex officio collector] **treasury** the state and county taxes collected by him **or her** during the preceding month, as shown by such statement, the county clerk, immediately after such default, and not later than the fifteenth day of the month in which such statement was or should have been made, shall certify such fact to the director of revenue and the prosecuting attorney of the county; and the director of revenue and the prosecuting attorney shall proceed against such defaulting [township collector] **collector-treasurer** in the same manner as is provided by section 139.270 for proceeding against defaulting county collectors [and ex officio county collectors,] and the [township collector] **collector-treasurer** shall [forfeit his commission] on all moneys collected and wrongfully withheld, [and otherwise] be liable to all the penalties imposed by section 139.270.

2. The county clerk shall certify a copy of such monthly statement to the director of revenue within the time prescribed for certifying the statements of the county collectors and [ex officio collectors] **collector-treasurers**.

139.450. COLLECTOR-TREASURER — STATEMENTS. — The [ex officio collector] **collector-treasurer** shall include in his **or her** monthly statement all such sums collected for the preceding month [as may have been paid to him by the township collectors up to the time of making his monthly statement,] which have not been included in any previous statements, and shall include in [his] **the collector-treasurer's** annual settlement, as provided in this chapter and in the general revenue law, the whole amount of taxes collected [by the several township collectors of his county] as shown by the annual settlements [of the township collectors] with the county commission as provided in section 139.420.

139.460. COLLECTOR-TREASURER — SCHOOL TAXES, COLLECTION — APPORTIONED AND KEPT — SCHOOL DISTRICTS. — 1. The [township collector] **collector-treasurer** shall be required to draw or procure a plat of each school district or fractional part thereof in [his township] **the collector-treasurer's county**, and shall keep a true and correct account of all school moneys collected by him **or her** in each school district or fractional part thereof; and when said collector pays the moneys so collected by him **or her** to the township treasurer **or school district treasurer**, he **or she** shall state the amount collected from each school district or fractional part thereof, and take duplicate receipts therefor, one of which he **or she** shall retain, and file the other with the township clerk.

2. As soon as the school funds are apportioned, the township treasurer shall apply to the county [treasurer] **collector-treasurer** for the school moneys belonging to each school district or fractional part thereof, in his **or her** township, and the county [treasurer] **collector-treasurer** shall pay over to him **or her** all of said school money, taking duplicate receipts therefor, one of which he **or she** shall file with the township clerk **and one of which shall be retained**.

3. The township treasurer shall safely keep such money until paid out upon the order of the board of directors of the various school districts in his **or her** township.

4. When any school district is divided by township or county lines, the district shall be considered in the township or county in which the schoolhouse is located, and the township treasurer holding any money belonging to fractional parts of districts in which no schoolhouse is located shall pay over all such money to the township treasurer of the township in which the fractional part of the district having the schoolhouse is located, taking duplicate receipts therefor, one of which shall be filed with the township clerk, and the township treasurer shall settle annually with the township board on or before the twentieth day of March in each year.

140.150. LANDS, LOTS, MINERAL RIGHTS, AND ROYALTY INTERESTS SUBJECT TO SALE, WHEN. — 1. All lands, lots, mineral rights, and royalty interests on which taxes **or neighborhood improvement district special assessments** are delinquent and unpaid are subject to sale to discharge the lien for the delinquent and unpaid taxes **or unpaid special assessments** 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 **or special assessments** 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 **or unpaid special assessments**, 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, lots, mineral rights, and royalty interests constitutes a levy upon the delinquent lands, lots, mineral rights, and royalty interests for the purpose of enforcing the lien of delinquent and unpaid taxes **or unpaid special assessments as provided in section 67.469, RSMo**, together with penalty, interest and costs.

165.071. COUNTY COLLECTOR-TREASURER TO PAY OVER SCHOOL DISTRICT MONEYS MONTHLY (SEVEN-DIRECTOR DISTRICTS). — 1. At least once in every month the county collector in all counties of the first and second **[**classes**]** **classifications** and the **[**township collector**]** **collector-treasurer** in counties having township organization shall pay over to the treasurer of the school board of all seven-director districts all moneys received and collected by **[**him**]** **the collector-treasurer** to which the board is entitled and take duplicate receipts from the treasurer, one of which **[**he**]** **the collector-treasurer** shall file with the secretary of the school board and the other **[**he**]** **the collector-treasurer** shall file in his **or her** settlement with the county commission.

2. The county collector in counties of the third and fourth **[**classes**]** **classification**, except in counties under township organization, shall pay over to the county treasurer at least once in every month all moneys received and collected by **[**him**]** **the county collector** which are due each school district and shall take duplicate receipts therefor, one of which **[**he**]** **the county collector** shall file in his **or her** settlement with the county commission. The county treasurer in such counties shall pay over to the treasurer of the school board of seven-director districts, at least once in every month, all moneys so received by **[**him**]** **the county treasurer** to which the board is entitled. Upon payment **[**he**]** **the county treasurer** shall take duplicate receipts from the treasurer of the school board, one of which **[**he**]** **the county treasurer** shall file with the secretary of the school board, and the other he shall file in his **or her** settlement with the county commission.

190.010. TERRITORY OF DISTRICT MAY BE NONCONTIGUOUS — AMBULANCE DISTRICTS AUTHORIZED EXCEPT IN COUNTIES OF 400,000 OR MORE POPULATION — DISTRICT, HOW NAMED. — 1. An ambulance district may be created, incorporated and managed as provided in sections 190.001 to 190.090 and may exercise the powers herein granted or necessarily implied.

The territory contained within the corporate limits of a proposed ambulance district shall not be required to be contiguous. Any territory which is noncontiguous within a proposed district must be located so that at least a portion of the territory lies within five miles of any other portion of the territory contained within the proposed ambulance district. Notwithstanding the provisions of subsection 2 of section 190.015, an ambulance district may include municipalities or territory not in municipalities or both or territory in one or more counties; except, that the provisions of sections 190.001 to 190.090 are not effective in counties having a population of more than four hundred thousand inhabitants at the time the ambulance district is formed. The territory contained within the corporate limits of an existing ambulance district shall not be incorporated in another ambulance district. Ambulance districts created and still operating before August 1, 1998, in counties of less than four hundred thousand population are authorized to continue operation subject to sections 190.001 to 190.090 if the population of the county within the ambulance district exceeds four hundred thousand after August 1, 1998.

2. When an ambulance district is organized it shall be a body corporate and a political subdivision of the state and shall be known as "..... Ambulance District", and in that name may sue and be sued, levy and collect taxes within the limitations of sections 190.001 to 190.090 and the constitution and issue bonds as provided in sections 190.001 to 190.090.

190.015. PETITION TO FORM, CONTENTS — AMBULANCE DISTRICT BOUNDARIES (ST. LOUIS COUNTY). — 1. Whenever the creation of an ambulance district is desired, a number of voters residing in the proposed district equal to ten percent of the vote cast for governor in the proposed district in the next preceding gubernatorial election may file with the county clerk in which the territory or the greater part thereof is situated a petition requesting the creation thereof. In case the proposed district **[**which shall be contiguous**]** is situated in two or more counties, the petition shall be filed in the office of the county clerk of the county in which the greater part of the area is situated, and the commissioners of the county commission of the county shall set the petition for public hearing. The petition shall set forth:

(1) A description of the territory to be embraced in the proposed district;

(2) The names of the municipalities located within the area;

(3) The name of the proposed district;

(4) The population of the district which shall not be less than two thousand inhabitants;

(5) The assessed valuation of the area, which shall not be less than ten million dollars; and

(6) A request that the question be submitted to the voters residing within the limits of the proposed ambulance district whether they will establish an ambulance district pursuant to the provisions of sections 190.001 to 190.090 to be known as "..... Ambulance District" for the purpose of establishing and maintaining an ambulance service.

2. In any county with a charter form of government and with more than one million inhabitants, fire protection districts created under chapter 321, RSMo, may choose to create an ambulance district with boundaries congruent with each participating fire protection district's existing boundaries provided no ambulance district already exists in whole or part of any district being proposed and the dominant provider of ambulance services within the proposed district as of September 1, 2005, ceases to offer or provide ambulance services, and the board of each participating district, by a majority vote, approves the formation of such a district and participating fire protection districts are contiguous. Upon approval by the fire protection district boards, subsection 1 of this section shall be followed for formation of the ambulance district. Services provided by a district under this subsection shall only include emergency ambulance services as defined in section 321.225, RSMo.

190.090. CONSOLIDATION OF AMBULANCE DISTRICTS, PROCEDURE FOR — FORM OF BALLOT — TRANSITION PROVISIONS FOR CONSOLIDATION. — 1. Two or more organized ambulance districts may consolidate into one ambulance district**[**, if the territory of the consolidated district is contiguous,**]** by following the procedures set forth in this section.

2. If the consolidation of existing ambulance districts is desired, a number of voters residing in an existing ambulance district equal to ten percent of the vote cast for governor in the existing district in the next preceding gubernatorial election may file with the county clerk in which the territory or greater part of the proposed consolidated district is situated a petition requesting the consolidation of two or more existing ambulance districts.

3. The petition shall be in the following form:

We, the undersigned voters of the ..... ambulance district do hereby petition that ..... existing ambulance districts be consolidated into one consolidated ambulance district.

4. An alternative procedure of consolidation may be followed, if the board of directors of the existing ambulance districts pass a resolution in the following form:

Be it resolved by the board of directors of the ambulance district that the ..... ambulance districts be consolidated into one consolidated ambulance district.

5. Upon the filing of a petition, or a resolution, with the county clerk from each of the ambulance districts proposed to be consolidated, the county clerk shall present the petition or resolution to the commissioners of the county commission having jurisdiction who shall thereupon order the submission of the question to the voters of the districts. The filing of each of the petitions in the ambulance districts shall have occurred within a continuous twelve-month period.

6. The notice shall set forth the names of the existing ambulance districts to be included in the consolidated district.

7. The question shall be submitted in substantially the following form:

Shall the existing ..... ambulance districts be consolidated into one ambulance district?

8. If the county commission having jurisdiction finds that the question to consolidate the districts received a majority of the votes cast, the commission shall make and enter its order declaring that the proposition passed.

9. Within thirty days after the district has been declared consolidated, the county commission shall divide the district into six election districts and shall order an election to be held and conducted as provided in section 190.050 for the election of directors.

10. Within thirty days after the election of the initial board of directors of the district, the directors shall meet and the time and place of the first meeting of the board shall be designated by the county commission. At the first meeting the newly elected board of directors shall choose a name for the consolidated district and shall notify the clerk of the county commission of each county within which the consolidated district is located of the name of the consolidated district.

11. On the thirtieth day following the election of the board of directors, the existing ambulance districts shall cease to exist and the consolidated district shall assume all of the powers and duties exercised by those districts. All assets and obligations of the existing ambulance districts shall become assets and obligations of the consolidated district.

190.292. EMERGENCY SERVICES, SALES TAX LEVY AUTHORIZED — BALLOT LANGUAGE — RATE OF TAX — TERMINATION OF TAX — BOARD TO ADMINISTER FUNDS ESTABLISHED, MEMBERS (WARREN COUNTY). — 1. In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent

gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a county sales tax of ..... (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

[ ]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 ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any 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. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the board, as established by subsection 11 of this section, shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by sections 190.290 to 190.296. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The board shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in sections 190.290 to 190.296. Immediately upon making its determination and fixing the rate, the board shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, three of whom shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, and any other emergency services. Four of the members of the board shall not be selected from or represent the fire protection districts, ambulance districts, sheriff's department, municipalities, or any other emergency services. Any individual serving on the board on August 28, 2004, may continue to serve and seek reelection or reappointment to the board, notwithstanding any provisions of this subsection. This initial board shall serve until its successor board is duly elected and installed

in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large. The members of the board shall annually elect, from among their number, the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years. **The election of the board members shall be conducted at the first municipal election held in a calendar year.**

11. When the board is organized, it shall be a body corporate and a political subdivision of the state and shall be known as the "..... Emergency Services Board".

12. This section shall only apply to any 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.

190.335. CENTRAL DISPATCH FOR EMERGENCY SERVICES, ALTERNATIVE FUNDING BY COUNTY SALES TAX, PROCEDURE, BALLOT FORM, RATE OF TAX — COLLECTION, LIMITATIONS — ADOPTION OF ALTERNATE TAX, TELEPHONE TAX TO EXPIRE, WHEN — BOARD APPOINTMENT AND ELECTION, QUALIFICATION, TERMS — CONTINUATION OF BOARD IN GREENE COUNTY. — 1. In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a county sales tax of ..... (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

[ ] 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 ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any 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. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the governing body shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The governing body shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the governing body shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, who shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, any other emergency services and the general public. This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large, such member to be the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the first classification with more than two hundred forty thousand three hundred but fewer than two hundred forty thousand four hundred inhabitants, any emergency telephone service 911 board appointed by the county under section 190.309 which is in existence on the date the voters approve a sales tax under this section shall continue to exist and shall have the powers set forth under section 190.339.

198.345. APARTMENTS FOR SENIORS, DISTRICTS MAY ESTABLISH (MARION AND RALLS COUNTIES). — Nothing in sections 198.200 to 198.350 shall prohibit a nursing home district from establishing and maintaining apartments for seniors that provide at a minimum housing, food services, and emergency call buttons to the apartment residents in any county of the third classification without a township form of government and with more than twenty-eight thousand two hundred but fewer than twenty-eight thousand three hundred inhabitants or any county of the third classification without a township form of government and with more than nine thousand five hundred fifty but fewer than nine thousand six hundred fifty inhabitants. Such nursing home districts shall not lease such apartments for less than fair market rent as reported by the United States Department of Housing and Urban Development.

205.010. PETITION OF VOTERS — MAXIMUM TAX RATE — SUBMISSION OF QUESTION. — Any county, subject to the provisions of the Constitution of the state of Missouri, may

establish, maintain, manage and operate a public health center in the following manner: Whenever the county commission shall be presented with a petition signed by at least ten percent or more of the voters of the county, as determined by the number of votes cast for governor at the preceding general election, asking that an annual tax not in excess of forty cents on each one hundred dollars of the assessed valuation of property in the county, be levied for the establishment, maintenance, management and operation of a county health center and the maintenance of the personnel required for operation of the health center, **or by majority vote of the county commission in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants, or by majority vote of the county commission in any county of the third classification without a township form of government and with more than sixteen thousand six hundred but fewer than sixteen thousand seven hundred inhabitants,** the county commission shall submit the question to the voters of the county at an election.

210.860. TAX LEVY, AMOUNT, PURPOSES — BALLOT — DEPOSIT OF FUNDS IN SPECIAL COMMUNITY CHILDREN'S SERVICES FUND. — 1. The governing body of any county or city not within a county may, after voter approval pursuant to this section, levy a tax not to exceed twenty-five cents on each one hundred dollars of assessed valuation on taxable property in the county for the purpose of providing counseling, family support, and temporary residential services to persons eighteen years of age or less **and those services described in section 210.861**. The question shall be submitted to the qualified voters of the county or city not within a county at a county or state general, primary or special election upon the motion of the governing body of the county or city not within a county or upon the petition of eight percent of the qualified voters of the county determined on the basis of the number of votes cast for governor in such county or city not within a county at the last gubernatorial election held prior to the filing of the petition. The election officials of the county or city not within a county shall give legal notice as provided in chapter 115, RSMo. The question shall be submitted in substantially the following form:

Shall ..... County (City) be authorized to levy a tax of ..... cents on each one hundred dollars of assessed valuation on taxable property in the county (city) for the purpose of establishing a community children's services fund for purposes of providing funds for counseling and related services to children and youth in the county (city) eighteen years of age or less and services which will promote healthy lifestyles among children and youth and strengthen families?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall be levied and collected as otherwise provided by law. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not be levied unless and until the question is again submitted to the qualified voters of the county or city not within a county and a majority of such voters are in favor of such a tax, and not otherwise.

2. All revenues generated by the tax prescribed in this section shall be deposited in the county treasury **or, in a city not within a county, to the board established by law to administer such fund** to the credit of a special "Community Children's Services Fund" **to accomplish the purposes set out herein and shall be used for no other purpose**. Such fund shall be administered by **and expended only upon approval by** a board of directors, established pursuant to section 210.861.

210.861. BOARD OF DIRECTORS, TERM, EXPENSES, ORGANIZATION — POWERS — FUNDS, EXPENDITURE, PURPOSE, RESTRICTIONS. — 1. When the tax prescribed by section 210.860 or section 67.1775, RSMo, is established, the governing body of the **city or** county shall appoint a board of directors consisting of nine members, who shall be residents of the **city or** county. All board members shall be appointed to serve for a term of three years, except that of

the first board appointed, three members shall be appointed for one-year terms, three members for two-year terms and three members for three-year terms. Board members may be reappointed. In a city not within a county, or any county of the first classification with a charter form of government with a population not less than nine hundred thousand inhabitants, or any county of the first classification with a charter form of government with a population not less than two hundred thousand inhabitants and not more than six hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than one hundred seventy thousand and not more than two hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than eighty thousand and not more than eighty-three thousand inhabitants, or any third classification county with a population not less than twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the third classification with a population not less than nineteen thousand five hundred and not more than twenty thousand inhabitants the members of the community mental health board of trustees appointed pursuant to the provisions of sections 205.975 to 205.990, RSMo, shall be the board members for the community children's services fund. The directors shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses.

2. The board shall elect a chairman, vice chairman, treasurer, and such other officers as it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety bond, in an amount to be determined and in a form to be approved by the board, for the faithful performance of his **or her** duties and faithful accounting of all moneys that may come into his **or her** hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors. The board shall administer **and expend** all funds generated pursuant to section 210.860 or section 67.1775, RSMo, in a manner consistent with this section.

3. The board may contract with public or not-for-profit agencies licensed or certified where appropriate to provide qualified services and may place conditions on the use of such funds. The board shall reserve the right to audit the expenditure of any and all funds. The board and any agency with which the board contracts may establish eligibility standards for the use of such funds and the receipt of services. No member of the board shall serve on the governing body, have any financial interest in, or be employed by any agency which is a recipient of funds generated pursuant to section 210.860 or section 67.1775, RSMo.

4. Revenues collected and deposited in the community children's services fund may be expended for the purchase of the following services:

(1) Up to thirty days of temporary shelter for abused, neglected, runaway, homeless or emotionally disturbed youth; respite care services; and services to unwed mothers;

(2) Outpatient chemical dependency and psychiatric treatment programs; counseling and related services as a part of transitional living programs; home-based and community-based family intervention programs; unmarried parent services; crisis intervention services, inclusive of telephone hotlines; and prevention programs which promote healthy lifestyles among children and youth and strengthen families;

(3) Individual, group, or family professional counseling and therapy services; psychological evaluations; and mental health screenings.

5. Revenues collected and deposited in the community children's services fund may not be expended for inpatient medical, psychiatric, and chemical dependency services, or for transportation services.

215.246. GRANTS OR LOANS NOT AWARDED WITHOUT IMPLEMENTATION OF CERTAIN OVERSIGHT PROCEDURES (KANSAS CITY). — Beginning July 1, 2006, the commission shall not award grants or loans to any home rule city with more than four hundred thousand inhabitants and located in more than one county unless the governing body of such city has implemented oversight procedures to review expenditures and development plans for all housing contracts in excess of one hundred thousand dollars.

217.905. POWERS AND DUTIES OF COMMISSION — AUTHORITY TO HIRE EMPLOYEES AND SET SALARIES — STATE NOT LIABLE FOR DEFICIENCIES OR DEBTS OF COMMISSION — MISSOURI STATE PENITENTIARY COMMISSION DEEMED A STATE COMMISSION. — 1. The commission shall have the following powers:

(1) To acquire title to the property historically utilized as the Missouri state penitentiary and to acquire by gift or bequest from public or private sources property adjacent thereto and necessary or appropriate to the successful redevelopment of the Missouri state penitentiary property;

(2) To lease or sell real property to developers who will utilize the property consistent with the master plan for the property **and to hold proceeds from such transactions outside the state treasury**;

(3) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(4) To hire employees necessary to perform the commission's work;

(5) To contract and to be contracted with, including, but without limitation, the authority to enter into contracts with cities, counties and other political subdivisions, agencies of the state of Missouri and public agencies pursuant to sections 70.210 to 70.325, RSMo, and otherwise, and to enter into contracts with other entities, in connection with the acquisition by gift or bequest and in connection with the planning, construction, financing, leasing, subleasing, operation and maintenance of any real property or facility and for any other lawful purpose, and to sue and to be sued;

(6) To receive for its lawful activities **[**any rentals, proceeds from the sale of real estate,**]** contributions or moneys appropriated or otherwise designated for payment to the authority by municipalities, counties, state or other political subdivisions or public agencies or by the federal government or any agency or officer thereof or from any other sources and to apply for grants and other funding **and deposit those funds in the Missouri state penitentiary redevelopment fund**;

(7) To disburse funds for its lawful activities and fix salaries and wages of its employees;

(8) To invest any of the commission's funds in such types of investments as shall be determined by a resolution adopted by the commission;

(9) To borrow money for the acquisition, construction, equipping, operation, maintenance, repair, remediation or improvement of any facility or real property to which the commission holds title and for any other proper purpose, and to issue negotiable notes, bonds and other instruments in writing as evidence of sums borrowed;

(10) To perform all other necessary and incidental functions, and to exercise such additional powers as shall be conferred by the general assembly; and

(11) To purchase insurance, including self-insurance, of any property or operations of the commission or its members, directors, officers and employees, against any risk or hazard, and to indemnify its members, agents, independent contractors, directors, officers and employees against any risk or hazard. **The commission is specifically authorized to purchase insurance from the Missouri public entity risk management fund and is hereby determined to be a "public entity" as defined in section 537.700, RSMo.**

2. In no event shall the state be liable for any deficiency or indebtedness incurred by the commission.

3. The Missouri state penitentiary redevelopment commission is a state commission for purposes of section 105.711, RSMo, and all members of the commission shall be entitled to coverage under the state legal expense fund.

231.230. BRIDGES COSTING MORE THAN FORTY-FIVE HUNDRED DOLLARS, HOW BUILT. — Whenever it shall be necessary in any township to build a bridge, the cost of which shall exceed **[**one hundred**]** **forty-five hundred** dollars, the township board of directors shall make out and cause to be presented to the county commission a certified statement of the amount of

money necessary for the construction thereof, and, if deemed proper, the said county commission shall cause the bridge to be built by contract as provided by law.

231.444. COUNTY ROAD TAX — CARTER, SCOTLAND, KNOX, SCHUYLER AND WORTH COUNTIES — SPECIAL ROAD ROCK FUND. — 1. In addition to other levies authorized by law, the governing body of any county of the third classification without a township form of government having a population in excess of four thousand two hundred and less than six thousand according to the most recent decennial census **or any county of the third classification without a township form of government and with more than two thousand three hundred but fewer than two thousand four hundred inhabitants** may by ordinance levy and impose a tax pursuant to this section which shall not exceed the rate of twenty-five cents on each acre of real property in the county which is classified as agricultural and horticultural property pursuant to section 137.016, RSMo.

2. The proceeds of the tax authorized pursuant to this section shall be collected by the county collector and remitted to the county treasurer who shall deposit such proceeds in a special fund to be known as the "Special Road Rock Fund". All moneys in the special road rock fund shall be appropriated by the county governing body for the sole purpose of purchasing road rock to be placed on county roads within the boundaries of the county.

3. The ordinance levying and imposing a tax pursuant to subsection 1 of this section shall not be effective unless the county governing body submits to the qualified voters of the county a proposal to authorize the county governing body to levy and impose the tax at an election permitted pursuant to section 115.123, RSMo. The ballot of submission proposing the tax shall be in substantially the following form:

Shall the county of ..... (county's name) be authorized to levy and impose a tax on all real property in the county which is classified as agricultural or horticultural property at a rate not to exceed ..... (rate of tax) cents per acre with all the proceeds of the tax to be placed in the "Special Road Rock Fund" and used solely for the purpose of purchasing road rock to be placed on county roads within the boundaries of the county?

[ ] YES [ ] NO

4. If a majority of the qualified voters of the county voting on the proposal vote "YES", then the governing body of the county may by ordinance levy and impose the tax authorized by this section in an amount not to exceed the rate proposed in the ballot of submission. If a majority of the qualified voters of the county voting on the proposal vote "NO", then the governing body of the county shall not levy and impose such tax. Nothing in this section shall prohibit a rejected proposal from being resubmitted to the qualified voters of the county at an election permitted pursuant to section 115.123, RSMo.

233.295. DISSOLUTION OF ROAD DISTRICT — PETITION — NOTICE — DISINCORPORATION OF DISTRICT (CHRISTIAN, JASPER AND BARRY COUNTIES). — 1. Whenever a petition, signed by the owners of a majority of the acres of land, within a road district organized under the provisions of sections 233.170 to 233.315 shall be filed with the county commission of any county in which such district is situated, setting forth the name of the district and the number of acres owned by each signer of such petition and the whole number of acres in such district, the county commission shall have power, if in its opinion the public good will be thereby advanced, to disincorporate such road district. No such road district shall be disincorporated until notice is published in at least one newspaper of general circulation in the county where the district is situated for four weeks successively prior to the hearing of such petition.

2. In any county with a population of at least thirty-two thousand inhabitants which adjoins a county of the first classification which contains a city with a population of one hundred thousand or more inhabitants that adjoins no other county of the first classification, whenever a petition signed by at least fifty registered voters residing within the district organized under the

provisions of sections 233.170 to 233.315 is filed with the county clerk of the county in which the district is situated, setting forth the name of the district and requesting the disincorporation of such district, the county clerk shall certify for election the following question to be voted upon by the eligible voters of the district:

Shall the..... incorporated road district organized under the provisions of sections 233.170 to 233.315, RSMo, be dissolved?

[ ] YES [ ] NO

If a majority of the persons voting on the question are in favor of the proposition, then the county commission shall disincorporate the road district.

3. The petition filed pursuant to subsection 2 of this section shall be submitted to the clerk of the county no later than eight weeks prior to the next countywide election at which the question will be voted upon.

4. Notwithstanding other provisions of this section to the contrary, in any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants, any petition to disincorporate a road district organized under sections 233.170 to 233.315 shall be presented to the county commission or similar authority. The petition shall be signed by the lesser of fifty or a majority of the registered voters residing within the district, shall state the name of the district, and shall request the disincorporation of the district. If a petition is submitted as authorized in this section, and it is the opinion of the county commission that the public good will be advanced by the disincorporation after providing notice and a hearing as required in this section, then the county commission shall disincorporate the road district. This subsection shall not apply to any road district located in two counties.

5. Notwithstanding other provisions of this section to the contrary, in any county of the third classification without a township form of government and with more than thirty-four thousand but fewer than thirty-four thousand one hundred inhabitants, any petition to disincorporate a road district organized under sections 233.170 to 233.315 shall be presented to the county commission or similar authority. The petition shall be signed by the lesser of fifty or a majority of the registered voters residing within the district, shall state the name of the district, and shall request the disincorporation of the district. If a petition is submitted as authorized in this section, and it is the opinion of the county commission that the public good will be advanced by the disincorporation after providing notice and a hearing as required in this section, then the county commission shall disincorporate the road district. This subsection shall not apply to any road district located in two counties.

6. Notwithstanding other provisions of this section to the contrary, in any county of the second classification with more than fifty-four thousand two hundred but fewer than fifty-four thousand three hundred inhabitants, any petition to disincorporate a road district organized under sections 233.170 to 233.315 shall be presented to the county commission or similar authority. The petition shall be signed by the lesser of fifty or a majority of the registered voters residing within the district, shall state the name of the district, and shall request the disincorporation of the district. If a petition is submitted as authorized in this section, and it is the opinion of the county commission that the public good will be advanced by the disincorporation after providing notice and a hearing as required in this section, then the county commission shall disincorporate the road district. This subsection shall not apply to any road district located in two counties.

7. Notwithstanding other provisions of this section to the contrary, in any county, any petition to disincorporate a road district organized under sections 233.170 to 233.315 shall be presented to the county commission or similar authority. The petition shall be signed by the lesser of fifty or a majority of the registered voters residing within the district, shall state the name of the district, and shall request the disincorporation of the district. If a petition is submitted as authorized in this section, and it is the opinion of the county

commission that the public good will be advanced by the disincorporation after providing notice and a hearing as required in this section, then the county commission shall disincorporate the road district. This subsection shall not apply to any road district located in two counties.

8. Notwithstanding other provisions of this section to the contrary, in any county, a petition to disincorporate a road district located in two counties organized under sections 233.170 to 233.315 shall be presented to the county commission or similar authority in each county in which the road district is located. Each petition shall be signed by the lesser of fifty or a majority of the registered voters residing within the district and county, shall state the name of the district, and shall request the disincorporation of the district. If a petition is submitted as authorized in this section, and it is the opinion of the county commission in each county in which the road district is located that the public good will be advanced by the disincorporation after providing notice and a hearing as required in this section, then the county commission in each county in which the road district is located shall disincorporate the road district. A road district located in two counties shall not be disincorporated until it is disincorporated in each county in which it is located.

242.560. CURRENT AND DELINQUENT TAXES — COLLECTION — PROCEDURE. — 1. In counties where the provisions of chapter 65, RSMo, are, or may hereafter be in force, the secretary of the board of supervisors shall extend all drainage taxes under the provisions of sections 242.010 to 242.690 on separate tax books for the respective townships in which such lands are situate, and such tax books shall be certified to the **[**township collectors of such townships**] collector-treasurer** at the same time and in the same manner as provided for county collectors.

2. Such taxes shall be collected by such **[**township collectors**] collector-treasurer** at the same time and in the same manner as state and county taxes are collected, and each **[**township collector**] collector-treasurer** shall give bond, have the same authority to collect such taxes, receive the same compensation therefor and pay over such taxes to the secretary of board of supervisors, as provided for county collectors under said sections, and shall be subject to the same penalties and liabilities. Such **[**township collectors**] collector-treasurer** shall make due return of such tax books under oath in the same manner as required of county collectors.

3. The delinquent drainage taxes shall be certified by the secretary of the board of supervisors to the county **[**treasurer as ex officio collector**] collector-treasurer** of delinquent taxes, who shall collect such delinquent drainage taxes at the same time and in the same manner as is herein provided for the collection of the delinquent drainage taxes in counties not under the provisions of chapter 65, RSMo. The said **[**treasurer as ex officio collector**] collector-treasurer** of delinquent taxes shall give bond, have the same authority to collect such taxes, receive the same compensation therefor and pay over the said taxes to the treasurer of the drainage district as is provided for county collectors under sections 242.010 to 242.690, and shall be subject to the same penalties and liabilities.

4. All township drainage tax books, and the return of the collectors of such books, shall be taken as prima facie evidence in all courts of all matters therein contained, and that the delinquent tax shown in such books was properly levied and extended against such lands and remains unpaid. The lien of such tax shall be enforced and suits to collect such delinquent tax shall be instituted and prosecuted in the same manner provided by said sections, except such suits shall be instituted by the drainage district on tax bills duly made out and certified by the county **[**treasurer as ex officio collector**] collector-treasurer** of delinquent taxes.

245.205. SECRETARY OF BOARD TO EXTEND AND CERTIFY LEVEE TAX TO COLLECTOR-TREASURERS — DUTIES OF COLLECTOR-TREASURER — COUNTY COLLECTOR-TREASURER TO COLLECT DELINQUENT TAXES. — 1. In counties where the provisions of chapter 65, RSMo, are or may hereafter be in force, the secretary of the board of supervisors shall extend all levee

taxes under the provisions of sections 245.010 to 245.280 on separate tax books for the respective townships in which such lands are situate, and such tax books shall be certified to the **[**township collectors of such townships**]** **collector-treasurers** at the same time and in the same manner as provided for county collectors. Such taxes shall be collected by such **[**township collectors**]** **collector-treasurers** at the same time and in the same manner, as state and county taxes are collected, and each **[**township collector**]** **collector-treasurer** shall give bond, have the same authority to collect such taxes, receive the same compensation therefor and pay over such taxes to the secretary of board of supervisors, as provided for county collectors under sections 245.010 to 245.280 and shall be subject to the same penalties and liabilities. Such **[**township collectors**]** **collector-treasurers** shall make due return of such tax books under oath in the same manner as required of county collectors.

2. The delinquent levee taxes shall be certified by the secretary of the board of supervisors to the county **[**treasurer as ex officio collector**]** **collector-treasurer** of delinquent taxes, who shall collect such delinquent levee taxes at the same time and in the same manner as is herein provided for the collection of the delinquent levee taxes in counties not under the provisions of chapter 65, RSMo. The said **[**treasurer as ex officio collector**]** **collector-treasurer** of delinquent levee taxes shall give bond, have the same authority to collect such taxes, receive the same compensation therefor, and pay over the said taxes to the treasurer of the levee district as is provided for county collectors under sections 245.010 to 245.280, and shall be subject to the same penalties and liabilities.

3. All township levee tax books, and the return of the collectors of such books, shall be taken as prima facie evidence in all courts of all matters therein contained, and that the delinquent tax shown in such books was properly levied and extended against such lands and remains unpaid. The lien of such tax shall be enforced and suits to collect such delinquent tax shall be instituted and prosecuted in the same manner provided by sections 245.010 to 245.280, except such suits shall be instituted by the levee district on tax bills duly made out and certified by the county **[**treasurer as ex officio collector**]** **collector-treasurer** of delinquent taxes.

246.005. EXTENSION OF TIME OF CORPORATE EXISTENCE — REINSTATEMENT PERIOD FOR CERTAIN DISTRICTS. — 1. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, which has, prior to April 8, 1994, been granted an extension of the time of corporate existence by the circuit court having jurisdiction, shall be deemed to have fully complied with all provisions of law relating to such extensions, including the time within which application for the extension must be made, unless, for good cause shown, the circuit court shall set aside such extension within ninety days after April 8, 1994.

2. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, shall have five years after the lapse of the corporate charter in which to reinstate and extend the time of the corporate existence by the circuit court having jurisdiction, and such circuit court judgment entry and order shall be deemed to have fully complied with all provisions of law relating to such extensions.

247.060. BOARD OF DIRECTORS — POWERS — QUALIFICATIONS — APPOINTMENT — TERMS — VACANCIES, HOW FILLED — ELECTIONS HELD, WHEN, PROCEDURE. — 1. The management of the business and affairs of the district is hereby vested in a board of directors, who shall have all the powers conferred upon the district except as herein otherwise provided, who shall serve without pay. It shall be composed of five members, each of whom shall be a voter of the district and shall have resided in said district one whole year immediately prior to his election. A member shall be at least twenty-five years of age and shall not be delinquent in the

payment of taxes at the time of his election. Except as provided in subsection 2 of this section, the term of office of a member of the board shall be three years. The remaining members of the board shall appoint a qualified person to fill any vacancy on the board. If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve on the board, the board may appoint an otherwise qualified person, who lives in the district but not in the subdistrict in which the vacancy exists to fill such vacancy.

2. **After notification by certified mail that he or she has two consecutive unexcused absences, any member of the board failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to the board. The vacancy shall be filled as other vacancies occurring in the board.**

3. The initial members of the board shall be appointed by the circuit court and one shall serve until the immediately following first Tuesday after the first Monday in June, two shall serve until the first Tuesday after the first Monday in June on the second year following their appointment and the remaining appointees shall serve until the first Tuesday after the first Monday in June on the third year following their appointment. On the expiration of such terms and on the expiration of any subsequent term, elections shall be held as otherwise provided by law, and such elections **[**may**]** **shall** be held in April pursuant to section 247.180.

247.180. ELECTIONS IN DISTRICT, WHEN, PROCEDURE — NOT REQUIRED, WHEN — VACANT POST, HOW FILLED. — 1. Regular elections and elections held for the purposes of section 247.130 shall be called annually by the board of directors **[**on the first Tuesday after the first Monday in June or**]** on the first Tuesday after the first Monday in April. Such elections shall be conducted by the appropriate election authority pursuant to chapter 115, RSMo.

2. Notwithstanding any other provision of law, if there is only one candidate for the post of director of any given subdistrict, then no election shall be held, and the candidate or candidates shall assume the responsibilities of their offices at the same time and in the same manner as if elected. If there is no candidate for the post of any given subdistrict, then no election shall be held for that post and it shall be considered vacant, to be filled pursuant to the provisions of section 247.060.

249.1150. DISTRICT AUTHORIZED, OPT OUT PROCEDURE, POWERS — RESOLUTION MAY BE ADOPTED BY COUNTY COMMISSION FOR SERVICE BY DISTRICT — BOARD OF TRUSTEES, MEMBERS, TERMS — MAINTENANCE PLAN REQUIRED, WHEN — PROPERTY TAX LEVY, BALLOT FORM — TERMINATION OF TAX, PROCEDURE (BARRY, CHRISTIAN, DOUGLAS, GREENE, OZARK, STONE, TANEY, WEBSTER, AND WRIGHT COUNTIES). — 1. There is hereby created within any county of the third classification without a township form of government and with more than thirty-four thousand but less than thirty-four thousand one hundred inhabitants, any county of the second classification without a township form of government and with more than fifty-four thousand two hundred but less than fifty-four thousand three hundred inhabitants, any county of the third classification without a township form of government and with more than thirteen thousand seventy-five but less than thirteen thousand one hundred seventy-five inhabitants, any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants, any 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, any county of the third classification without a township form of government and with more than twenty-eight thousand six hundred but less than twenty-eight thousand seven hundred inhabitants, any county of the first classification with more than thirty-nine thousand seven hundred but less than thirty-nine thousand eight hundred inhabitants, any 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, and any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants, the Upper White River Basin Watershed Improvement District. The watershed improvement district is authorized to own, install, operate, and maintain decentralized or individual on-site wastewater treatment plants. The watershed improvement district created under this section shall be a body corporate and a political subdivision of the state of Missouri, shall be capable of suing and being sued in contract in its corporate name, and shall be capable of holding such real and personal property necessary for corporate purposes. The district shall implement procedures to regulate the area within the district and to educate property owners within the district about the requirements imposed by the district.

2. Any county included in the Upper White River Basin Watershed Improvement District, as established in subsection 1 of this section, may choose to opt out of the district in one of two ways:

(1) Upon the filing of a petition signed by at least twenty percent of the property owners residing within the county, a proposal is submitted to the qualified voters within the district boundaries. The ballot of submission shall be in substantially the following form:

Shall the county of ..... opt out of the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to opt out of district, then the county shall no longer be included in the Upper White River Basin Watershed Improvement district, and shall cease all imposition, collection, and assessment of any taxes associated with that district, beginning on the first day of the first month following the election. If a simple majority of the votes cast in the county opposes the proposal to opt out of the district, then the county shall remain a part of the Upper White River Basin Watershed Improvement District. However, if a proposal to opt out of the district is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section; or

(2) Upon the issuance of an order by the county commission, a proposal is submitted to the qualified voters within the district boundaries to opt out of the Upper White River Basin Watershed Improvement District. The ballot of submission shall be in substantially the following form:

Shall the county of ..... opt out of the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to opt out of the Upper White River Basin Watershed Improvement District, then the county shall no longer be included in the Upper White River Basin Watershed Improvement District, and shall cease all imposition, collection, and assessment of any taxes associated with that District, beginning on the first day of the first month following the election. If a simple majority of the votes cast in the county opposes the proposal to opt out of the Upper White River Basin Watershed Improvement District, then the county shall remain a part of the Upper White River Basin Watershed Improvement District. However, if a proposal to opt out of the Upper White River Basin Watershed Improvement District, is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

3. Any county who has successfully chosen to opt out of the Upper White River Basin Watershed Improvement District under the provisions of subsection 2 of this section, shall

be allowed to rejoin the district at any time, provided the county submits the proposal to rejoin the district in one of two ways:

(1) Upon the filing of a petition signed by at least twenty percent of the property owners residing within the county, a proposal is submitted to the qualified voters within the county. The ballot of submission shall be in substantially the following form:

Shall the county of ..... rejoin the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to rejoin the Upper White River Basin Watershed Improvement District, then the county shall rejoin the district. If a simple majority of the votes cast in the county opposes the proposal to rejoin the district, then the county shall remain outside the Upper White River Basin Watershed Improvement District. However, if a proposal to rejoin the Upper White River Basin Watershed Improvement District, is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section; or

(2) Upon the issuance of an order by the county commission, a proposal is submitted to the qualified voters within the district boundaries to rejoin the Upper White River Basin Watershed Improvement District. The ballot of submission shall be in substantially the following form:

Shall the county of ..... rejoin the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to rejoin the Upper White River Basin Watershed Improvement District, then the county shall rejoin the Upper White River Basin Watershed Improvement District. If a simple majority of the votes cast in the county opposes the proposal to rejoin the Upper White River Basin Watershed Improvement District, then the county shall remain outside the Upper White River Basin Watershed Improvement District. However, if a proposal to rejoin the Upper White River Basin Watershed Improvement District, is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

[2.**] 4.** The watershed improvement district created under this section shall have the power to borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property within the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property within the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or

places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

[3.**]** **5.** The county commission of any county located within the watershed improvement district may authorize individual properties to be served by the district by adoption of a resolution or upon the filing of a petition signed by at least twenty percent of the property owners of the proposed area. The resolution or petition shall describe generally the size and location of the proposed area.

[4.**]** **6.** In the event that any property within the watershed improvement district proposed under this section lies within or is serviced by any existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed improvement district formed under this section unless the existing sewer district agrees to refrain from providing service or to discontinue service to the property. No property shall become part of the watershed district until the owner of that property has paid in full all outstanding costs owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

[5.**]** **7.** Upon the creation of the watershed improvement district as authorized by this section, a board of trustees for the district consisting of nine members shall be appointed. The governing body of each county shall appoint one member to serve on the board. No trustee shall reside in the same county as another trustee. Of the initial trustees appointed, five shall serve terms of one year, and four shall serve terms of two years, as determined by lot. After the initial appointments of the trustees, the successor trustees shall reside in the same county as the prior trustee and be elected by the resident property owners of their county within the district. Each trustee may be elected to no more than five consecutive two-year terms. Vacancies shall be filled by the board. Each trustee shall serve until a successor is elected and sworn. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. The board shall enter into contracts with any person or entity for the maintenance, administrative, or support work required to administer the district. The board may charge reasonable fees and submit proposals to levy and impose property taxes to fund the operation of the district to the qualified voters in the district, but such proposals shall not become effective unless a majority of the qualified voters in the district voting on the proposals approve the proposed levy and rate of tax. The board may adopt resolutions necessary to the operation of the district.

[6.**]** **8.** No service shall be initiated to any property lying within the watershed improvement district created under this section unless the property owner elects to have the service provided by the district.

[7.**]** **9.** Any on-site wastewater treatment system installed on any property that participates in the watershed improvement district formed under this section shall meet all applicable standards for such on-site wastewater treatment systems under sections 701.025 to 701.059, RSMo, and as required by rules or regulations promulgated by the board of trustees and the appropriate state agencies.

[8.**]** **10.** Property owners participating in the watershed improvement district formed under this section shall be required as a condition of continued participation to have a maintenance plan approved by the watershed improvement district for the on-site wastewater treatment systems on their properties. Such property owners shall also execute a utilities easement to allow the district access to the system for maintenance purposes and inspections. The property owner shall provide satisfactory proof that periodic maintenance is performed on the sewage system. At a minimum the system shall be installed and maintained according to the manufacturer's recommendations. The level of satisfactory proof required and the frequency of periodic proof shall be determined by the board of trustees.

[9.**]** **11.** A district established under this section may, at a general or primary election, submit to the qualified voters within the district boundaries a real property tax that shall not exceed five cents per one hundred dollars assessed valuation to fund the operation of the district. The ballot of submission shall be in substantially the following form:

Shall the ..... (name of district) impose a real property tax within the district at a rate of not more than ..... (insert amount) dollars per hundred dollars of assessed valuation to fund the operation of the district?

[ ] 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 in each county that is part of the district favor the proposal, then the real property tax shall become effective in the district on the first day of the year following the year of the election. If a majority of the votes cast in each county that is a part of the district oppose the proposal, then that county shall not impose the real property tax authorized in this section until after the county governing body has submitted another such real property tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a real property tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

[10.**] 12.** The real property tax authorized by this section is in addition to all other real property taxes allowed by law.

[11.**] 13.** Once the real property tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the tax. The tax shall not be abolished or terminated while the district has any financing or other obligations outstanding. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities.

14. The governing body of any county included in the Upper White River Basin Watershed Improvement District established in section 249.1150 may designate groundwater depletion areas within specific areas of the county and may require well volume monitoring. However, any county included in this district may choose not to require well volume monitoring.

250.140. SERVICES DEEMED FURNISHED BOTH TO OCCUPANT AND OWNER OF PREMISES — PAYMENT DELINQUENCY, NOTICE OF TERMINATION SENT TO BOTH OCCUPANT AND OWNER OF PREMISES — APPLICABILITY — UNAPPLIED-FOR UTILITY SERVICES, DEFINED. — 1. Sewerage services**, water services,** or water and sewerage services combined shall be deemed to be furnished to both the occupant and owner of the premises receiving such service and**, except as otherwise provided in subsection 2 of this section,** the city, town **[**or**],** village**,** or sewer district **or water supply district organized and incorporated under chapter 247, RSMo,** rendering such services shall have power to sue the occupant or owner, or both, of such real estate in a civil action to recover any sums due for such services **less any deposit that is held by the city, town, village, or sewer district or water supply district organized and incorporated under chapter 247, RSMo, for such services**, plus a reasonable attorney's fee to be fixed by the court.

2. **[**If the occupant of the premises receives the billing,**] When the occupant is delinquent in payment for thirty days, the city, town, village, sewer district, or water supply district shall make a good faith effort to notify the owner of the premises receiving such service of the delinquency and the amount thereof. Notwithstanding any other provision of this section to the contrary, when an occupant is delinquent more than ninety days, the owner shall not be liable for sums due for more than ninety days of service; provided, however, that in any city not within a county and any home rule city with more than four hundred thousand inhabitants and located in more than one county, until January 1, 2007, when an occupant is delinquent more than one hundred twenty days the owner shall not be liable for sums due for more than one hundred twenty days of service, and after January**

1, 2007, when an occupant is delinquent more than ninety days the owner shall not be liable for sums due for more than ninety days. Any notice of termination of service shall be sent to both the occupant and owner of the premises receiving such service**[**, if such owner has requested in writing to receive any notice of termination and has provided the entity rendering such service with the owner's business addresses.**]**

3. The provisions of this section shall apply only to residences that have their own private water and sewer lines. In instances where several residences share a common water or sewer line, the owner of the real property upon which the residences sit shall be liable for water and sewer expenses.

4. Notwithstanding any other provision of law to the contrary, any water provider who terminates service due to delinquency of payment by a consumer shall not be liable for any civil or criminal damages.

5. The provisions of this section shall not apply to unapplied-for utility services. As used in this subsection, "unapplied-for utility services" means services requiring application by the property owner and acceptance of such application by the utility prior to the establishment of an account. The property owner is billed directly for the services provided, and as a result, any delinquent payment of a bill becomes the responsibility of the property owner rather than the occupant.

263.245. BRUSH ADJACENT TO COUNTY ROADS, TO BE REMOVED, CERTAIN COUNTIES — COUNTY COMMISSION MAY REMOVE BRUSH, WHEN, PROCEDURES, CERTAIN COUNTIES. — 1. All owners of land in any county with a township form of government, located north of the Missouri River and having no portion of the county located east of U.S. Highway 63 **and located in any county of the third classification without a township form of government and with more than four thousand one hundred but fewer than four thousand two hundred inhabitants, or in any county of the third classification without a township form of government and with more than two thousand three hundred but fewer than two thousand four hundred inhabitants** shall control all brush growing on such owner's property that is designated as the county right-of-way or county maintenance easement part of such owner's property and which is adjacent to any county road. Such brush shall be cut, burned or otherwise destroyed as often as necessary in order to keep such lands accessible for purposes of maintenance and safety of the county road.

2. The county commission, either upon its own motion or upon receipt of a written notice requesting the action from any residents of the county in which the county road bordering the lands in question is located or upon written request of any person regularly using the county road, may control such brush so as to allow easy access to the land described in subsection 1 of this section, and for that purpose the county commission, or its agents, servants, or employees shall have authority to enter on such lands without being liable to an action of trespass therefor, and shall keep an accurate account of the expenses incurred in eradicating the brush, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate. Such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on such lands, and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund.

3. Before proceeding to control brush as provided in this section, the county commission of the county in which the land is located shall notify the owner of the land of the requirements of this law by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land thirty days from acknowledgment date of return receipt, or date of refusal of acceptance of delivery as the case may be, to eradicate all such brush growing on land designated as the county right-of-way or county maintenance easement part of such owner's land and which is adjacent to the county road. In the event that

the property owner cannot be located by certified mail, notice shall be placed in a newspaper of general circulation in the county in which the land is located at least thirty days before the county commission removes the brush pursuant to subsection 2 of this section. Such property owner shall be granted an automatic thirty-day extension due to hardship by notifying the county commission that such owner cannot comply with the requirements of this section, due to hardship, within the first thirty-day period. The property owner may be granted a second extension by a majority vote of the county commission. There shall be no further extensions. For the purposes of this subsection, "hardship" may be financial, physical or any other condition that the county commission deems to be a valid reason to allow an extension of time to comply with the requirements of this section.

4. County commissions shall not withhold rock, which is provided from funds from the county aid road trust fund, for maintaining county roads due to the abutting property owner's refusal to remove brush located on land designated as the county right-of-way or county maintenance easement part of such owner's land. County commissions shall use such rock on the county roads, even though the brush is not removed, or county commissions may resort to the procedures in this section to remove the brush.

278.240. DISTRICT BOARD OF SUPERVISORS TO GOVERN WATERSHED DISTRICT, COMBINED BOARDS TO GOVERN, WHEN — TRUSTEES OF WATERSHED DISTRICT, HOW ELECTED, TERMS — POWERS OF DIRECTORS — MILEAGE REIMBURSEMENT AUTHORIZED. — 1. The board of soil and water conservation district supervisors of the soil and water conservation district in which the watershed district is formed shall act in an advisory capacity to the watershed district board. When a watershed district lies in more than one soil and water conservation district, the combined boards of soil and water conservation district supervisors shall act in an advisory capacity to the watershed district board.

2. Five landowners **[**living**]** within the watershed district shall be elected to serve as trustees of the watershed district. The trustees shall be elected by a vote of landowners participating in the referendum for the establishment of the watershed district, but the date of the election shall not fall upon the date of any regular political election held in the county. The ballot submitting the proposition to form the watershed district shall be so worded as to clearly state that a tax, not to exceed forty cents on one hundred dollars valuation of all real estate within the watershed district, may be authorized if the watershed district is formed. In watershed districts formed after September 28, 1977, two trustees shall be elected for a term of six years, two shall be elected for a term of four years, and one shall be elected for a term of two years. Their successors shall be elected for terms of six years. In any district in existence on September 28, 1977, the three trustees holding office shall continue as trustees. At the next scheduled election within the watershed district, two additional trustees shall be elected. One of the additional trustees shall be elected for a term of four years and one shall be elected for a term of six years. Each successor shall be elected for a term of six years. In case of the death, loss of landowner standing within the watershed district, or resignation from office of any elected watershed district trustee, his or her successor to the unexpired term shall be appointed by the trustees of that watershed district. A trustee may succeed himself or herself by reelection in this office. The trustees shall elect one of their members as chairman and one of their members as secretary to serve for terms of two years.

3. The trustees shall act in all matters pertaining to the watershed district, except those concerning formation, consolidation, expansion or disestablishment of the watershed district. It shall be the responsibility of the secretary of the trustees to see that each soil and water district board included in the watershed district is provided a copy of the minutes of each meeting held by the trustees. The trustees shall be reimbursed for expenses incurred relating to the business of the watershed district.

301.025. PERSONAL PROPERTY TAXES AND FEDERAL HEAVY VEHICLE USE TAX, PAID WHEN — TAX RECEIPT FORMS — FAILURE TO PAY PERSONAL PROPERTY TAX, EFFECT OF, NOTIFICATION REQUIREMENTS, REINSTATEMENT FEE, APPEALS — RULEMAKING, PROCEDURE. — 1. No state registration license to operate any motor vehicle in this state shall be issued unless the application for license of a motor vehicle or trailer is accompanied by a tax receipt for the tax year which immediately precedes the year in which the vehicle's or trailer's registration is due and which reflects that all taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county **[**or township collector of the county or township**]** **collector or collector-treasurer of the county** in which the applicant's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant**,** or **a statement certified by the county or township collector for such previous year** that no such taxes were **assessed or** due **and, the applicant has no unpaid taxes on the collector's tax roll for any subsequent year** or, if the applicant is not a resident of this state and serving in the armed forces of the United States, the application is accompanied by a leave and earnings statement from such person verifying such status or, if the applicant is an organization described pursuant to subdivision (5) of section 137.100, RSMo, or subsection 1 of section 137.101, RSMo, the application is accompanied by a document, in a form approved by the director, verifying that the organization is registered with the department of revenue or is determined by the internal revenue service to be a tax-exempt entity. If the director of the department of revenue has been notified by the assessor pursuant to subsection 2 of section 137.101, RSMo, that the applicant's personal property is not tax exempt, then the organization's application shall be accompanied by a statement certified by the county **collector** or **[**township collector**]** **collector-treasurer** of the county **[**or township**]** in which the organization's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the organization. In the event the registration is a renewal of a registration made two or three years previously, the application shall be accompanied by proof that taxes were not due or have been paid for the two or three years which immediately precede the year in which the motor vehicle's or trailer's registration is due. The county **collector** or **[**township collector**]** **collector-treasurer** shall not be required to issue a receipt **or certified statement that taxes were not assessed or due** for the immediately preceding tax year until all personal property taxes, including all **current and** delinquent taxes **[**currently due**]**, are paid. If the applicant was a resident of another county of this state in the applicable preceding years, he or she must submit to the collector **or collector-treasurer** in the county **[**or township**]** of residence proof that the personal property tax was paid in the applicable tax years. Every county **collector** and **[**township collector**]** **collector-treasurer** shall give each person a tax receipt or a certified statement of tangible personal property taxes paid. The receipt issued by the county collector in any county of the first classification with a charter form of government which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand inhabitants which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any county of the first classification without a charter form of government with a population of at least one hundred ten thousand but less than one hundred fifty thousand inhabitants shall be determined null and void if the person paying tangible personal property taxes issues or passes a check or other similar sight order which is returned to the collector because the account upon which the check or order was drawn was closed or did not have sufficient funds at the time of presentation for payment by the collector to meet the face amount of the check or order. The collector may assess and collect in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order whichever amount is greater to be deposited in the county general revenue fund, but in no event shall such penalty imposed exceed one hundred dollars. The

collector may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the collector unless the remittance is in the form of a cashier's check, certified check or money order. If a person does not comply with the provisions of this section, a tax receipt issued pursuant to this section is null and void and no state registration license shall be issued or renewed. Where no such taxes are due each such collector shall, upon request, certify such fact and transmit such statement to the person making the request. Each receipt or statement shall describe by type the total number of motor vehicles on which personal property taxes were paid, and no renewal of any state registration license shall be issued to any person for a number greater than that shown on his or her tax receipt or statement except for a vehicle which was purchased without another vehicle being traded therefor, or for a vehicle previously registered in another state, provided the application for title or other evidence shows that the date the vehicle was purchased or was first registered in this state was such that no personal property tax was owed on such vehicle as of the date of the last tax receipt or certified statement prior to the renewal. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms. If electronic data is not available, residents of counties with a township form of government and with **[**township collectors**] collector-treasurers** shall present personal property tax receipts which have been paid for the preceding two years when registering under this section.

2. Every county collector in counties with a population of over six hundred thousand and less than nine hundred thousand shall give priority to issuing tax receipts or certified statements pursuant to this section for any person whose motor vehicle registration expires in January. Such collector shall send tax receipts or certified statements for personal property taxes for the previous year within three days to any person who pays the person's personal property tax in person, and within twenty working days, if the payment is made by mail. Any person wishing to have priority pursuant to this subsection shall notify the collector at the time of payment of the property taxes that a motor vehicle registration expires in January. Any person purchasing a new vehicle in December and licensing such vehicle in January of the following year may use the personal property tax receipt of the prior year as proof of payment.

3. In addition to all other requirements, the director of revenue shall not register any vehicle subject to the heavy vehicle use tax imposed by Section 4481 of the Internal Revenue Code of 1954 unless the applicant presents proof of payment, or that such tax is not owing, in such form as may be prescribed by the United States Secretary of the Treasury. No proof of payment of such tax shall be required by the director until the form for proof of payment has been prescribed by the Secretary of the Treasury.

4. Beginning July 1, 2000, a county **collector** or **[**township collector**] collector-treasurer** may notify, by ordinary mail, any owner of a motor vehicle for which personal property taxes have not been paid that if full payment is not received within thirty days the collector may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the collector **or collector-treasurer** by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. Thereafter, if the owner fails to timely pay such taxes the collector **or collector-treasurer** may notify the director of revenue of such failure. Such notification shall be on forms designed and provided by the department of revenue and shall list the motor vehicle owner's full name, including middle initial, the owner's address, and the year, make, model and vehicle identification number of such motor vehicle. Upon receipt of this notification the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in effect until the department of revenue receives notification from a county **collector** or **[**township collector**] collector-treasurer** that the personal property taxes have been paid in full. Upon the owner furnishing proof of payment of such taxes and paying a twenty dollar reinstatement fee

to the director of revenue the motor vehicle or vehicles registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of personal property tax the owner so aggrieved may appeal to the circuit court of the county of his or her residence for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

5. Beginning July 1, 2005, a city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify, by ordinary mail, any owner of a motor vehicle who is delinquent in payment of vehicle-related fees and fines that if full payment is not received within thirty days, the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. If the vehicle-related fees and fines are assessed against a car that is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time the fees or fines are assessed, the rental or leasing company may rebut the presumption by providing the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county with a copy of the rental or lease agreement in effect at the time the fees or fines were assessed. A rental or leasing company shall not be charged for fees or fines under this subsection, nor shall the registration of a vehicle be suspended, unless prior written notice of the fees or fines has been given to that rental or leasing company by ordinary mail at the address appearing on the registration and the rental or leasing company has failed to provide the rental or lease agreement copy within fifteen days of receipt of such notice. Any notification to a rental or leasing company that is returned to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. For the purpose of this section, "vehicle-related fees and fines" includes, but is not limited to, traffic violation fines, parking violation fines, vehicle towing, storage and immobilization fees, and any late payment penalties, other fees, and court costs associated with the adjudication or collection of those fines.

6. If after notification under subsection 5 of this section the vehicle owner fails to pay such vehicle-related fees and fines to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county within thirty days from the date of such notice, the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify the director of revenue of such failure. Such notification shall be on forms or in an electronic format approved by the department of revenue and shall list the vehicle owner's full name and address, and the year, make, model, and vehicle identification number of such motor vehicle and such other information as the director shall require.

7. Upon receipt of notification under subsection 5 of this section, the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in effect until the department of revenue receives notification from a city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county that the vehicle-related fees or fines have been paid in full. Upon the

owner furnishing proof of payment of such fees and fines and paying a twenty dollar reinstatement fee to the director of revenue the motor vehicle registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of vehicle-related fees or fines the owner so aggrieved may appeal to the circuit court of the county where the violation occurred for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

8. The city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county shall reimburse the department of revenue for all administrative costs associated with the administration of subsections 5 to 8 of this section.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

311.087. PORTABLE BARS, ENTERTAINMENT DISTRICT SPECIAL LICENSE — DEFINITIONS — ISSUANCE, PROCEDURE (KANSAS CITY). — 1. As used in this section, the following terms mean:

(1) "Common area", any area designated as a common area in a development plan for the entertainment district approved by the governing body of the city, any area of a public right-of-way that is adjacent to or within the entertainment district when it is closed to vehicular traffic and any other area identified in the development plan where a physical barrier precludes motor vehicle traffic and limits pedestrian accessibility;

(2) "Entertainment district", any area located in a home rule city with more than four hundred thousand inhabitants and located in more than one county that:

(a) Is located in the city's central business district which is the historic core locally known as the city's downtown area;

(b) Contains a combination of entertainment venues, bars, nightclubs, and restaurants; and

(c) Is designated as a redevelopment area by the governing body of the city pursuant to the Missouri downtown and rural economic stimulus act, sections 99.915 to 99.1060, RSMo;

(3) "Portable bar", any bar, table, kiosk, cart, or stand that is not a permanent fixture and can be moved from place to place;

(4) "Promotional association", an association, incorporated in the state of Missouri, which is organized or authorized by one or more property owners located within the entertainment district, who own or otherwise control not less than one hundred thousand square feet of premises designed, constructed, and available for lease for bars, nightclubs, restaurants, and other entertainment venues, for the purpose of organizing and promoting activities within the entertainment district. For purposes of determining ownership or control as set forth in this subdivision, the square footage of premises used for residential, office or retail uses other than bars, nightclubs, restaurants, and other entertainment venues, parking facilities, and hotels within the entertainment district shall not be used in the calculation of square footage.

2. Notwithstanding any other provisions of this chapter to the contrary, any person acting on behalf of or designated by a promotional association, 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 alcohol and tobacco control may issue, an entertainment district special license to sell intoxicating liquor by the drink for retail for consumption dispensed from one or more portable bars within the common areas of the entertainment district until 3:00 a.m. on Mondays through Saturdays and from 9:00 a.m. until 12:00 midnight on Sundays.

3. An applicant granted an entertainment district special license under this section shall pay a license fee of three hundred dollars per year.

4. Notwithstanding any other provision of this chapter to the contrary, on such days and at such times designated by the promotional association, in its sole discretion, provided such times are during the hours a license is allowed under this chapter to sell alcoholic beverages, the promotional association may allow persons to leave licensed establishments, located in portions of the entertainment district designated by the promotional association, with an alcoholic beverage and enter upon and consume the alcoholic beverage within other licensed establishments and common areas located in portions of the entertainment district designated by the promotion association. No person shall take any alcoholic beverage outside the boundaries of the entertainment district or portions of the entertainment district as designated by the promotional association, in its sole discretion. At times when a person is allowed to consume alcoholic beverages dispensed from portable bars and in common areas of all or any portion of the entertainment district designated by the promotional association, the promotional association must ensure that minors can be easily distinguished from persons of legal age buying alcoholic beverages.

5. Every licensee within the entertainment district must serve alcoholic beverages in containers that display the licensee's trade name or logo or some other mark that is unique to that licensee.

6. The holder of an entertainment district special license is solely responsible for alcohol violations occurring at its portable bar and in any common area.

313.800. DEFINITIONS — ADDITIONAL GAMES OF SKILL, COMMISSION APPROVAL, PROCEDURES. — 1. As used in sections 313.800 to 313.850, unless the context clearly requires otherwise, the following terms mean:

(1) "Adjusted gross receipts", the gross receipts from licensed gambling games and devices less winnings paid to wagerers;

(2) "Applicant", any person applying for a license authorized under the provisions of sections 313.800 to 313.850;

(3) "Bank", the elevations of ground which confine the waters of the Mississippi or Missouri Rivers at the ordinary high water mark as defined by common law;

(4) **"Capital, cultural, and special law enforcement purpose expenditures", shall include any disbursement, including disbursements for principal, interest, and costs of issuance and trustee administration related to any indebtedness, for the acquisition of land, land improvements, buildings and building improvements, vehicles, machinery, equipment, works of art, intersections, signing, signalization, parking lot, bus stop, station, garage, terminal, hanger, shelter, dock, wharf, rest area, river port, airport, light rail, railroad, other mass transit, pedestrian shopping malls and plazas, parks, lawns, trees, and other landscape, convention center, roads, traffic control devices, sidewalks, alleys, ramps, tunnels, overpasses and underpasses, utilities, streetscape, lighting, trash receptacles, marquees, paintings, murals, fountains, sculptures, water and sewer systems, dams, drainage systems, creek bank restoration, any asset with a useful life greater than one year, cultural events, and any expenditure related to a law enforcement officer deployed as horse mounted patrol, school resource or drug awareness resistance education (D.A.R.E) officer;**

[(4)**] (5)** "Cheat", to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game;

[(5)**] (6)** "Commission", the Missouri gaming commission;

[(6)**] (7)** "Dock", the location in a city or county authorized under subsection 10 of section 313.812 which contains any natural or artificial space, inlet, hollow, or basin, in or adjacent to a bank of the Mississippi or Missouri Rivers, next to a wharf or landing devoted to the embarking of passengers on and disembarking of passengers from a gambling excursion but shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;

[(7)**] (8)** "Excursion gambling boat", a boat, ferry or other floating facility licensed by the commission on which gambling games are allowed;

(9) "Fiscal year", shall for the purposes of subsections 3 and 4 of section 313.820, mean the fiscal year of a home dock city or county;

[(8)**] (10)** "Floating facility", any facility built or originally built as a boat, ferry or barge licensed by the commission on which gambling games are allowed;

[(9)**] (11)** "Gambling excursion", the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise;

[(10)**] (12)** "Gambling game" includes, but is not limited to, games of skill or games of chance on an excursion gambling boat but does not include gambling on sporting events; provided such games of chance are approved by amendment to the Missouri Constitution;

[(11)**] (13)** "Games of chance", any gambling game in which the player's expected return is not favorably increased by his or her reason, foresight, dexterity, sagacity, design, information or strategy;

[(12)**] (14)** "Games of skill", any gambling game in which there is an opportunity for the player to use his or her reason, foresight, dexterity, sagacity, design, information or strategy to favorably increase the player's expected return; including, but not limited to, the gambling games known as "poker", "blackjack" (twenty-one), "craps", "Caribbean stud", "pai gow poker", "Texas hold'em", "double down stud", and any video representation of such games;

[(13)**] (15)** "Gross receipts", the total sums wagered by patrons of licensed gambling games;

[(14)**] (16)** "Holder of occupational license", a person licensed by the commission to perform an occupation within excursion gambling boat operations which the commission has identified as requiring a license;

[(15)**] (17)** "Licensee", any person licensed under sections 313.800 to 313.850;

[(16)**] (18)** "Mississippi River" and "Missouri River", the water, bed and banks of those rivers, including any space filled by the water of those rivers for docking purposes in a manner approved by the commission but shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;

(19) "Supplier", a person who sells or leases gambling equipment and gambling supplies to any licensee.

2. In addition to the games of skill referred to in subdivision **[**(12)**] (14)** of subsection 1 of this section, the commission may approve other games of skill upon receiving a petition requesting approval of a gambling game from any applicant or licensee. The commission may set the matter for hearing by serving the applicant or licensee with written notice of the time and place of the hearing not less than five days prior to the date of the hearing and posting a public notice at each commission office. The commission shall require the applicant or licensee to pay the cost of placing a notice in a newspaper of general circulation in the applicant's or licensee's home dock city or county. The burden of proof that the gambling game is a game of skill is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing his or her case by a preponderance of evidence including:

(1) Is it in the best interest of gaming to allow the game; and

(2) Is the gambling game a game of chance or a game of skill?

All testimony shall be given under oath or affirmation. Any citizen of this state shall have the opportunity to testify on the merits of the petition. The commission may subpoena witnesses to offer expert testimony. Upon conclusion of the hearing, the commission shall evaluate the record of the hearing and issue written findings of fact that shall be based exclusively on the evidence and on matters officially noticed. The commission shall then render a written decision on the merits which shall contain findings of fact, conclusions of law and a final commission order. The final commission order shall be within thirty days of the hearing. Copies of the final commission order shall be served on the petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.

313.820. ADMISSION FEE, AMOUNT, DIVISION OF — LICENSEES SUBJECT TO ALL OTHER TAXES, COLLECTION OF NONGAMING TAXES BY DEPARTMENT OF REVENUE — CAP ON AMOUNT TO BE COLLECTED, EXCEPTIONS. — 1. An excursion boat licensee shall pay to the commission an admission fee of two dollars for each person embarking on an excursion gambling boat with a ticket of admission. One dollar of such fee shall be deposited to the credit of the gaming commission fund as authorized pursuant to section 313.835, and one dollar of such fee shall not be considered state funds and shall be paid to the home dock city or county. Subject to appropriation, one cent of such fee deposited to the credit of the gaming commission fund may be deposited to the credit of the compulsive gamblers fund created pursuant to the provisions of section 313.842. Nothing in this section shall preclude any licensee from charging any amount deemed necessary for a ticket of admission to any person embarking on an excursion gambling boat. If tickets are issued which are good for more than one excursion, the admission fee shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes, property taxes or any other tax or fee now or hereafter lawfully levied by any political subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision. All state taxes not connected directly to gambling games shall be collected by the department of revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the department of revenue may furnish and the commission may receive tax information to determine if applicants or licensees are complying with the tax laws of this state; however, any tax information acquired by the commission shall not become public record and shall be used exclusively for commission business.

3. Effective fiscal year 2008 and each fiscal year thereafter, the amount of revenue derived from admission fees paid to a home dock city or county shall not exceed the percentage of gross revenue realized by the home dock city or county attributable to such admission fees for fiscal year 2007. In the case of a new casino, the provisions of this section shall become effective two years from the opening of such casino and the amount of revenue derived from admission fees paid to a home dock city or county shall not exceed the average percentage of gross revenue realized by the home dock city or county attributable to such admission fees for the first two fiscal years in which such casino opened for business. Effective fiscal year 2010 and each subsequent fiscal year until fiscal year 2015, the percentage of all revenue derived by a home dock city or county from such admission fees used for expenditures other than capital, cultural, and special law

enforcement purpose expenditures shall be limited to not more than thirty percent. Effective fiscal year 2015 and each subsequent fiscal, the percentage of all revenue derived by a home dock city or county from such admission fees used for expenditures other than capital, cultural, and special law enforcement purpose expenditures shall be limited to not more than twenty percent.

4. After fiscal year 2007, in any fiscal year in which a home dock city or county collects an amount over the limitation on revenue derived from admission fees provided in subsection 1 of this section, such revenue shall be treated as if it were sales tax revenue within the meaning of section 67.505, RSMo, provided that the home dock city or county shall reduce its total general revenue property tax levy, in accordance with the method provided in subdivision (6) of subsection 3 of section 67.505, RSMo.

5. The provisions of subsections 3 and 4 of this section shall not affect the imposition or collection of a tax under section 313.822.

6. The provisions of subsections 3 and 4 of this section shall not apply to any city of the third classification with more than eight thousand two hundred but fewer than eight thousand three hundred inhabitants, any county of the third classification without a township form of government and with more than sixteen thousand six hundred but fewer than sixteen thousand seven hundred inhabitants, any county of the third classification without a township form of government and with more than ten thousand two hundred but fewer than ten thousand three hundred inhabitants, any home rule city with more than four hundred thousand inhabitants and located in more than one county, any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any city of the fourth classification with more than two thousand nine hundred but fewer than three thousand inhabitants and located in any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, any city of the third classification with more than six thousand seven hundred but fewer than six thousand eight hundred inhabitants and located in any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any city of the third classification with more than four thousand seven hundred but fewer than four thousand eight hundred inhabitants and located in any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any city of the third classification with more than twenty-five thousand seven hundred but fewer than twenty-five thousand nine hundred inhabitants, any county with a charter form of government and with more than one million inhabitants, any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, any special charter city with more than nine hundred fifty but fewer than one thousand fifty inhabitants, any county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants, any city not within a county, any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants, and any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants.

320.121. POWERS OF CITIES AND CERTAIN COUNTIES TO REGULATE OR PROHIBIT FIREWORKS. — 1. The provisions of sections 320.106 to 320.161 shall not be construed to abrogate or in any way affect the powers of the following political subdivisions to regulate or prohibit fireworks within its corporate limits:

(1) Any city**, town, or village** in this state; or

(2) Any county operating under a charter form of government.

2. It is unlawful for any manufacturer, distributor, wholesaler, jobber or seasonal retailer to sell or ship by common carrier fireworks to consumers within the corporate limits of the following political subdivisions which prohibit the sale or possession of fireworks:

(1) Any city**, town, or village** in this state; or

(2) Any county operating under a charter form of government.

321.120. ELECTION BEFORE DECREE BECOMES CONCLUSIVE — DECREE TO DETERMINE NUMBER OF DIRECTORS — BALLOT FORM — SUCCESSOR DIRECTORS, TERMS — MAY INCREASE NUMBER OF DIRECTORS, EXCEPTION — BALLOT, FORM — TERMS. — 1. The decree of incorporation shall not become final and conclusive until it has been submitted to an election of the voters residing within the boundaries described in such decree, and until it has been assented to by a majority vote of the voters of the district voting on the question. The decree shall also provide for the holding of the election to vote on the proposition of incorporating the district, and to select three or five persons to act as the first board of directors, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall there be incorporated a fire protection district?

[ ] YES [ ] NO

3. The proposition of electing the first board of directors or the election of subsequent directors may be submitted on a separate ballot or on the same ballot which contains any other proposition of the fire protection district. The ballot to be used for the election of a director or directors shall be substantially in the following form:

OFFICIAL BALLOT

Instruction to voters:

Place a cross (X) mark in the square opposite the name of the candidate or candidates you favor. (Here state the number of directors to be elected and their term of office.)

ELECTION

(Here insert name of district.) Fire Protection District. (Here insert date of election.)

FOR BOARD OF DIRECTORS

..... [ ] ..... [ ] ..... [ ]

4. If a majority of the voters voting on the proposition or propositions voted in favor of the proposition to incorporate the district, then the court shall enter its further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court finds that a majority of the voters voting thereon voted against the proposition to incorporate the district, then the court shall enter its further order declaring the decree of incorporation to be void and of no effect. If the court enters an order declaring the decree of incorporation to be final and conclusive, it shall at the same time designate the first board of directors of the district who have been elected by the voters voting thereon. If a board of three members is elected, the person receiving the third highest number of votes shall hold office for a term of two years, the person receiving the second highest number of votes shall hold office for a term of four years, and the person receiving the highest number of votes shall hold office for a term of six years from the date of the election of the first board of directors and until their successors are duly elected and qualified. If a board of five members is elected, the person who received the highest number of votes shall hold office for a term of six years, the persons who received the second and third highest numbers of votes shall hold office for terms of four years and the persons who received the fourth and fifth highest numbers of votes shall hold office for terms of two years and until their successors are duly elected and qualified. Thereafter, members of the board shall be elected to serve terms of six years and until their successors are duly elected and qualified**, provided however, in any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, any**

successor elected and qualified in the year 2005 shall hold office for a term of six years and until his or her successor is duly elected and qualified and any successor elected and qualified in the year 2006 or 2007 shall hold office for a term of five years and until his or her successor is duly elected and qualified, and thereafter, members of the board shall be elected to serve terms of four years and until their successors are duly elected and qualified. The court shall at the same time enter an order of record declaring the result of the election on the proposition, if any, to incur bonded indebtedness.

5. Notwithstanding the provisions of subsections 1 to 4 of this section to the contrary, upon a motion by the board of directors in districts where there are three-member boards, and upon approval by the voters in the district, the number of directors may be increased to five, except that in any county of the first classification with a population of more than nine hundred thousand inhabitants such increase in the number of directors shall apply only in the event of a consolidation of existing districts. The ballot to be used for the approval of the voters to increase the number of members on the board of directors of the fire protection district shall be substantially in the following form:

Shall the number of members of the board of directors of the ..... (Insert name of district) Fire Protection District be increased to five members?

[ ] YES [ ] NO

If a majority of the voters voting on the proposition vote in favor of the proposition then at the next election of board members after the voters vote to increase the number of directors, the voters shall select two persons to act in addition to the existing three directors as the board of directors. The court which entered the order declaring the decree of incorporation to be final shall designate the additional board of directors who have been elected by the voters voting thereon as follows: the one receiving the second highest number of votes to hold office for a term of four years, and the one receiving the highest number of votes to hold office for a term of six years from the date of the election of such additional board of directors and until their successors are duly elected and qualified. Thereafter, members of the board shall be elected to serve terms of six years and until their successors are duly elected and qualified**, provided however, in any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, any successor elected and qualified in the year 2005 shall hold office for a term of six years and until his or her successor is duly elected and qualified and any successor elected and qualified in the year 2006 or 2007 shall hold office for a term of five years and until his or her successor is duly elected and qualified, and thereafter, members of the board shall be elected to serve terms of four years and until their successors are duly elected and qualified**.

6. Members of the board of directors in office on the date of an election pursuant to subsection 5 of this section to elect additional members to the board of directors shall serve the term to which they were elected or appointed and until their successors are elected and qualified.

321.190. ATTENDANCE FEES AUTHORIZED — REIMBURSEMENT FOR EXPENSES — SECRETARY AND TREASURER, ADDITIONAL COMPENSATION, HOW SET, LIMITATION. — Each member of the board may receive an attendance fee not to exceed one hundred dollars for attending each regularly called board meeting, or special meeting, but shall not be paid for attending more than two in any calendar month, except that in a county of the first class having a charter form of government, he shall not be paid for attending more than four in any calendar month. **However, no board member shall be paid more than one attendance fee if such member attends more than one board meeting in a calendar week.** In addition, the chairman of the board of directors may receive fifty dollars for attending each regularly or specially called board meeting, but shall not be paid the additional fee for attending more than two meetings in any calendar month. Each member of the board shall be reimbursed for his **or her** actual expenditures in the performance of his **or her** duties on behalf of the district. The

secretary and the treasurer, if members of the board of directors, may each receive such additional compensation for the performance of their respective duties as secretary and treasurer as the board shall deem reasonable and necessary, not to exceed one thousand dollars per year. The circuit court having jurisdiction over the district shall have power to remove directors or any of them for good cause shown upon a petition, notice and hearing.

321.220. POWERS OF BOARD — EMPLOYEE BENEFITS PLAN. — For the purpose of providing fire protection to the property within the district, the district and, on its behalf, the board shall have the following powers, authority and privileges:

(1) To have perpetual existence;

(2) To have and use a corporate seal;

(3) To sue and be sued, and be a party to suits, actions and proceedings;

(4) To enter into contracts, franchises and agreements with any person, partnership, association or corporation, public or private, affecting the affairs of the district, including contracts with any municipality, district or state, or the United States of America, and any of their agencies, political subdivisions or instrumentalities, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service relating to the control or prevention of fires, including the installation, operation and maintenance of water supply distribution, fire hydrant and fire alarm systems; provided, that a notice shall be published for bids on all construction or purchase contracts for work or material or both, outside the authority contained in subdivision (9) of this section, involving an expense of ten thousand dollars or more;

(5) Upon approval of the voters as herein provided, to borrow money and incur indebtedness and evidence the same by certificates, notes or debentures, and to issue bonds, in accordance with the provisions of this chapter;

(6) To acquire, construct, purchase, maintain, dispose of and encumber real and personal property, fire stations, fire protection and fire-fighting apparatus and auxiliary equipment therefor, and any interest therein, including leases and easements;

(7) To refund any bonded indebtedness of the district without an election. The terms and conditions of refunding bonds shall be substantially the same as those of the original issue of bonds, and the board shall provide for the payment of interest, at not to exceed the legal rate, and the principal of such refunding bonds in the same manner as is provided for the payment of interest and principal of bonds refunded;

(8) To have the management, control and supervision of all the business and affairs of the district, and the construction, installation, operation and maintenance of district improvements therein;

(9) To hire and retain agents, employees, engineers and attorneys, including part-time or volunteer firemen;

(10) To have and exercise the power of eminent domain and in the manner provided by law for the condemnation of private property for public use to take any property within the district necessary to the exercise of the powers herein granted;

(11) To receive and accept by bequest, gift or donation any kind of property. Notwithstanding any other provision of law to the contrary, any property received by the fire protection district as a gift or any property purchased by the fire protection district at a price below the actual market value of the property may be returned to the donor or resold to the seller if such property is not used for the specific purpose for which it was acquired;

(12) To adopt and amend bylaws, fire protection and fire prevention ordinances, and any other rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects and affairs of the board and of the district, and refer to the proper authorities for prosecution any infraction thereof detrimental to the district. Any person violating any such ordinance is hereby declared to be guilty of a misdemeanor, and upon conviction thereof, shall be punished as is provided by law therefor. The prosecuting attorney

for the county in which the violation occurs shall prosecute such violations in the circuit court of that county. The legal officer or attorney for the fire district may be appointed by the prosecuting attorney as special assistant prosecuting attorney for the prosecution of any such violation. The enactments of the fire district in delegating administrative authority to officials of the district may provide standards of action for the administrative officials, which standards are declared as industrial codes adopted by nationally organized and recognized trade bodies**. The board shall have the power to adopt an ordinance, rule, or regulation allowing the district to charge individuals who reside outside of the district, but who receive emergency services within the boundaries of the district, for the actual and reasonable cost of such services. However, such actual and reasonable costs shall not exceed one hundred dollars for responding to each fire call or alarm and two hundred fifty dollars for each hour or a proportional sum for each quarter hour spent in combating a fire or emergency**;

(13) To pay all court costs and expenses connected with the first election or any subsequent election in the district;

(14) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter;

(15) To provide for health, accident, disability and pension benefits for the salaried members of its organized fire department of the district and such other benefits for their spouses and eligible unemancipated children, through either or both a contributory or noncontributory plan. For purposes of this section, "eligible unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured who is domiciled with the insured, who is less than twenty-three years of age, who is not married, not employed on a full-time basis, not maintaining a separate residence except for full-time students in an accredited school or institution of higher learning, and who is dependent on parents or guardians for at least fifty percent of his or her support. The type and amount of such benefits shall be determined by the board of directors of the fire protection district within the level of available revenues of the pension program and other available revenues of the district. If an employee contributory plan is adopted, then at least one voting member of the board of trustees shall be a member of the fire district elected by the contributing members, which shall not be the same as the board of directors;

(16) To contract with any municipality that is contiguous to a fire protection district for the fire protection district to provide fire protection to the municipality for a fee as hereinafter provided;

(17) To provide for life insurance, accident, sickness, health, disability, annuity, length of service, pension, retirement and other employee-type fringe benefits, subject to the provisions of section 70.615, RSMo, for the volunteer members of any organized fire department of the district and such other benefits for their spouses and eligible unemancipated children, through either a contributory or noncontributory plan, or both. For purposes of this section, "eligible unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured who is domiciled with the insured, who is less than twenty-three years of age, who is not married, not employed on a full-time basis, not maintaining a separate residence except for full-time students in an accredited school or institution of higher learning, and who is dependent on parents or guardians for at least fifty percent of his or her support. The type and amount of such benefits shall be determined by the board of directors of the fire protection district within available revenues of the district, including the pension program of the district. The provision and receipt of such benefits shall not make the recipient an employee of the district. Directors who are also volunteer members may receive such benefits while serving as a director of the district;

(18) To contract for services with any rural, volunteer or subscription fire department or organization, or volunteer fire protection association, as defined in section 320.300, RSMo, for the purpose of providing the benefits described in subdivision (17) of this section.

321.322. CITIES WITH POPULATION OF 2,500 TO 65,000 WITH FIRE DEPARTMENT, ANNEXING PROPERTY IN A FIRE PROTECTION DISTRICT — RIGHTS AND DUTIES, PROCEDURE — EXCEPTION. — 1. If any property located within the boundaries of a fire protection district shall be included within a city having a population of at least two thousand five hundred but not more than **[**fifty**]** **sixty-five** thousand which is not wholly within the fire protection district and which maintains a city fire department, then upon the date of actual inclusion of the property within the city, as determined by the annexation process, the city shall within sixty days assume by contract with the fire protection district all responsibility for payment in a lump sum or in installments an amount mutually agreed upon by the fire protection district and the city for the city to cover all obligations of the fire protection district to the area included within the city, and thereupon the fire protection district shall convey to the city the title, free and clear of all liens or encumbrances of any kind or nature, any such tangible real and personal property of the fire protection district as may be agreed upon, which is located within the part of the fire protection district located within the corporate limits of the city with full power in the city to use and dispose of such tangible real and personal property as the city deems best in the public interest, and the fire protection district shall no longer levy and collect any tax upon the property included within the corporate limits of the city; except that, if the city and the fire protection district cannot mutually agree to such an arrangement, then the city shall assume responsibility for fire protection in the annexed area on or before January first of the third calendar year following the actual inclusion of the property within the city, as determined by the annexation process, and furthermore the fire protection district shall not levy and collect any tax upon that property included within the corporate limits of the city after the date of inclusion of that property:

(1) On or before January first of the second calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(2) On or before January first of the third calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to four-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(3) On or before January first of the fourth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to three-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district;

(4) On or before January first of the fifth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to two-fifths of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district; and

(5) On or before January first of the sixth calendar year occurring after the date on which the property was included within the city, the city shall pay to the fire protection district a fee equal to one-fifth of the amount of revenue which would have been generated during the previous calendar year by the fire protection district tax on the property in the area annexed which was formerly a part of the fire protection district.

Nothing contained in this section shall prohibit the ability of a city to negotiate contracts with a fire protection district for mutually agreeable services. This section shall also apply to those fire protection districts and cities which have not reached agreement on overlapping boundaries previous to August 28, 1990. Such fire protection districts and cities shall be treated as though inclusion of the annexed area took place on December thirty-first immediately following August 28, 1990.

2. Any property excluded from a fire protection district by reason of subsection 1 of this section shall be subject to the provisions of section 321.330.

3. The provisions of this section shall not apply in any county of the first class having a charter form of government and having a population of over nine hundred thousand inhabitants.

4. The provisions of this section shall not apply where the annexing city or town operates a city fire department and was on January 1, 2005, a city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants and entirely surrounded by a single fire district. In such cases, the provision of fire and emergency medical services following annexation shall be governed by subsections 2 and 3 of section 72.418, RSMo.

321.603. ATTENDANCE FEES PERMITTED, FIRE DISTRICT BOARD MEMBERS (FIRST CLASSIFICATION CHARTER COUNTIES). — In addition to the compensation provided pursuant to section 321.190 for fire protection districts located in a county of the first classification with a charter form of government, each member of any such fire protection district board may receive an attendance fee not to exceed one hundred dollars for attending a board meeting conducted pursuant to chapter 610, RSMo, but such board member shall not be paid for attending more than four such meetings in any calendar month. **However, no board member shall be paid more than one attendance fee if such member attends more than one meeting conducted under chapter 610, RSMo, in a calendar week.**

349.045. BOARD OF DIRECTORS, QUALIFICATIONS, APPOINTMENT, TERMS — REQUIREMENTS FOR LEWIS COUNTY. — 1. Except as provided in subsection 2 of this section, the corporation shall have a board of directors in which all the powers of the corporation shall be vested and which shall consist of any number of directors, not less than five, all of whom shall be duly qualified electors of and taxpayers in the county or municipality; except that, for any industrial development corporation formed by any municipality located wholly within any county of the third or fourth classification, directors may be qualified taxpayers in and registered voters of such county. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in and about the performance of their duties hereunder. The directors shall be resident taxpayers for at least one year immediately prior to their appointment. No director shall be an officer or employee of the county or municipality. All directors shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality, and in all counties, other than a city not within a county and counties with a charter form of government, the appointments shall be made by the county commission and they shall be so appointed that they shall hold office for staggered terms. At the time of the appointment of the first board of directors the governing body of the municipality or county shall divide the directors into three groups containing as nearly equal whole numbers as may be possible. The first term of the directors included in the first group shall be two years, the first term of the directors included in the second group shall be four years, the first term of the directors in the third group shall be six years; provided, that if at the expiration of any term of office of any director a successor thereto shall not have been appointed, then the director whose term of office shall have expired shall continue to hold office until a successor shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality. The successors shall be resident taxpayers for at least one year immediately prior to their appointment.

2. A corporation in a county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants shall have a board of directors in which all the powers of the corporation shall be vested and which shall consist of a number of directors not less than the number of townships in such county. All directors shall be duly qualified electors of

and taxpayers in the county. Each township within the county shall elect one director to the board. Additional directors may be elected to the board to succeed directors appointed to the board as of the effective date of this section if the number of directors on the effective date of this section exceeds the number of townships in the county. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties. The directors shall be resident taxpayers for at least one year immediately prior to their election. No director shall be an officer or employee of the county. Upon the expiration of the term of office of any director appointed to the board prior to the effective date of this section, a director shall be elected to succeed him or her; provided that if at the expiration of any term of office of any director a successor thereto shall not have been elected, then the director whose term of office shall have expired shall continue to hold office until a successor shall be elected. The successors shall be resident taxpayers for at least one year immediately prior to their election.

393.015. SEWER COMPANY MAY CONTRACT WITH WATER COMPANY TO TERMINATE WATER SERVICES FOR NONPAYMENT OF SEWER BILL — PROCEDURE — IMMUNITY — COSTS, REIMBURSEMENT. — 1. Notwithstanding any other provision of law to the contrary, any sewer corporation, municipality or sewer district established under the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized pursuant to constitutional authority, may contract with any water corporation**[**, municipality, or public water supply district established under chapter 247, RSMo,**]** to terminate water services to any customer premises for nonpayment of a sewer bill. No such termination of water service may occur until thirty days after the sewer corporation, municipality or statutory sewer district or sewer district created and organized pursuant to constitutional authority sends a written notice to the customer by certified mail, except that if the water corporation**[**, municipality or public water supply district**]** is performing a combined water and sewer billing service for the sewer corporation, municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and waiting period already used by the water corporation**[**, municipality or public water supply district**]** to disconnect water service for nonpayment of the water bill. Acting pursuant to a contract, the water corporation**[**, municipality or public water supply district**]** shall discontinue water service until such time as the sewer charges and all related costs of termination and reestablishment of sewer and water services are paid by the customer.

2. A water corporation**[**, municipality, or public water supply district**]** acting pursuant to a contract with a sewer corporation, municipality or sewer district as provided in subsection 1 of this section shall not be liable for damages related to termination of water services unless such damage is caused by the negligence of such water corporation**[**, municipality, or public water supply district**]**, in which case the water corporation**[**, municipality, or public water supply district**]** shall be indemnified by the sewer corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs related to the termination and reestablishment of services by the water corporation**[**, municipality or public water supply district**]** shall be reimbursed by the sewer corporation, municipality, sewer district or sewer district created and organized pursuant to constitutional authority.

393.016. TERMINATION OF WATER SERVICE FOR NONPAYMENT OF SEWER BILL, WHEN — IMMUNITY FROM CIVIL LIABILITY — PROCEDURE TO ESTABLISH AGREEMENT, CONTENTS OF AGREEMENT — EXCEPTIONS. — **1. Notwithstanding any other provision of law, any municipality providing water, or any water district established under chapter 247, RSMo, which in this section shall sometimes be designated as a water provider, shall upon request of any municipality providing sewer service or public sewer district established under chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized under constitutional authority, which in this section shall**

sometimes be designated as a sewer provider, contract with such sewer provider to terminate water services to any water user of such water provider for nonpayment of a delinquent sewer bill owed to such sewer provider.

2. Any water provider, or independent contractor acting for a water provider, acting under a contract with a sewer provider under this section shall be exempt from all civil liability whatsoever arising from or related to termination of water services pursuant to any such contract.

3. In the event that any water provider and any sewer provider are unable to reach an agreement as provided in this section within six months of the receipt of such request by the water provider, then the sewer provider making the written request may file with the circuit court in which such water provider was incorporated, or if such water provider was not incorporated by a circuit court, then with a circuit court having jurisdiction of the water provider, a petition requesting that three commissioners be selected to draft such an agreement.

4. Any agreement drafted by the commissioners or entered into under this section shall contain the following provisions:

(1) The rules and regulations or ordinances of the sewer provider shall provide that the number of days of delinquency required before water service is discontinued for failure to pay for sewage service shall be equal to the number of days of delinquency required before water service is discontinued for failure to pay for water service under the rules and regulations of the water provider;

(2) The water provider shall not be required to discontinue water service to the sewer user for failure to pay the charges or rental due therefor unless the sewer provider shall first give a written notice to the water provider to do so. Such notice shall include the due date, amount of the delinquent bill, and all penalties and interest thereon. When payment of such amount is received by the sewer provider, upon written notice thereof to the water provider, the water provider shall restore water service to the water and sewer user, provided the water bill of such user owed to the water provider is not delinquent;

(3) The sewer provider shall at all times keep in force a general comprehensive public liability and property damage policy issued by a company authorized to do business in Missouri with policy limits equal to or in excess of those set forth in section 537.610, RSMo, shall include the water provider and any independent contractor who performs such agreement under contract with the water provider thereon as an additional insured, and shall furnish the water provider and such independent contractor a certificate of insurance evidencing such insurance is in effect. If at any time it fails to do so and furnish such certificate of insurance to the water provider and such independent contractor, the water provider and such independent contractor may cease to make water service terminations until such requirement is satisfied.

(4) The agreement shall provide that any loss of revenue incurred by the water provider as a result of discontinuing water service because of the failure of any sewage user to pay the charges or rental therefor shall be paid to the water provider by the sewer provider. Such amounts include, but are not limited to, loss of revenue by the water provider caused by disconnection of water service for a sewer bill delinquency when the water bill is not delinquent;

(5) When a water provider is collecting delinquent amounts for both the water and sewer service, all delinquent payments due to both the water and sewer provider shall be received by the water provider before water service is restored. If for any reason water service is never restored, any amount collected for delinquent accounts due both water and sewer provider shall be divided between the water provider and the sewer provider so that each receives the same percentage of the amount owed to it;

(6) The agreement shall provide that in the event the water provider or any independent contractor who performs such agreement under contract with the water provider incurs attorney fees or other costs not covered by insurance as a result of any

claim, litigation, or threatened litigation against the water provider or independent contractor which exceeds the limits of insurance coverage provided to the water provider or independent contractor by the sewer provider as stated in this section, the sewer provider shall reimburse such amounts to the water provider or independent contractor;

(7) The agreement shall contain a provision providing that the expense and cost of the water provider shall be recalculated annually and that the amount due it during the subsequent year shall be increased or decreased according to any change occurring in the costs and expenses; alternatively, upon agreement of the parties to the agreement, the agreement may provide for annual increases or decreases based upon the percentage of increase or decrease in the National Consumers Price Index for All Urban Consumers, unadjusted for seasonal variation, as published by the United States Department of Labor for the most recent date prior to the annual anniversary date of the execution of the agreement;

(8) All expense and cost incurred by the water provider in performing or carrying out the agreement shall be reimbursed to the water provider by the sewer provider. The reimbursement shall be made monthly, bi-monthly, or quarterly. In determining such expense incurred by the water provider, the commissioners shall consider the following items of expense, whether such items will be incurred by the water provider, at the time the agreement is executed or in the future, and if so, the amount of such expense attributable to such agreement at the time such agreement is executed and in the future:

(a) All personnel expense including, but not limited to, wages and salaries, employment taxes, retirement benefits, employment benefits, health insurance, and workers' compensation insurance;

(b) All expense incurred by payments to independent contractors who perform or carry out the agreement under contract with the water provider;

(c) Equipment expenses;

(d) Computer and computer program expense;

(e) Office space expense;

(f) Insurance expense attributable to the agreement between the water provider and the sewer provider, including the additional insurance expense of any independent contractor who performs or carries out the agreement under contract with such water provider;

(g) All other expense attributable to the agreement between the water and sewer provider;

(9) The agreement shall terminate in twenty years unless a different term is agreed upon by the parties. Upon termination, the parties may agree to an extension thereof, not to exceed an additional twenty years;

(10) If ownership of either the sewer system of the sewer provider or the water system of the water provider is transferred to another entity or person, the agreement shall terminate at the time of the transfer, unless the new owner and remaining owner agree otherwise.

5. Upon the filing of such petition, the sewer provider shall appoint one commissioner. The water provider shall appoint a commissioner within thirty days of the service of the petition upon it. If the water provider fails to appoint a commissioner within such time period, the court shall appoint a commissioner on behalf of the water provider within forty-five days of service of the petition on the water provider. The two named commissioners shall agree to appoint a third commissioner within thirty days after the appointment of the second commissioner, but in the event that they fail to do so, the court shall appoint a third commissioner within sixty days after the appointment of the second commissioner.

6. The commissioners shall draft an agreement between the water provider and sewer provider meeting the requirements established in this section. Before drafting such agreement, the water provider and sewer provider shall be given an opportunity to

present evidence and information pertaining to such agreement at a hearing to be held by the commissioners, of which each party shall receive fifteen days written notice. The hearing may be continued from time to time by the commissioners. The commissioners shall consider all evidence and information submitted to them and prepare such agreement as provided under this section. The agreement shall be submitted to the court within ninety days of the selection or appointment of the last commissioner as provided under this section.

7. If the court finds that the agreement is fair, reasonable, and meets the requirements of this section, then the court shall enter its judgment approving the agreement and order it to become effective sixty days after the date of such judgment. If the court finds such agreement is not fair and reasonable or does not meet the requirements of this section, the court shall return it to the commissioners with its reasons for rejecting the agreement. The commissioners shall make the required changes and resubmit the agreement to the court. Upon approval of the agreement by the court, judgment shall be entered approving the agreement and ordering it to become effective sixty days after the date of such judgment. Thereafter, the parties shall abide by such agreement. If either party fails to do so, the other party may file an action to compel compliance. Venue shall be in the court issuing such judgment.

8. The judgment and order of the court shall be subject to appeal as provided by law. All costs, including commissioners' compensation, shall be taxed to and paid by the sewer provider requesting an agreement. The court shall determine and order payment of fees of expert witnesses of the water provider by the sewer provider to the water provider.

9. The provisions of this section shall not apply to any city not within a county or any county with a charter form of government and with more than one million inhabitants.

447.620. DEFINITIONS. — As used in sections 447.620 to 447.640, the following terms mean:

(1) "Housing code", a local building, fire, health, property maintenance, nuisance, or other ordinance which contains standards regulating the condition or maintenance of residential buildings;

(2) "Last known address", the address where the property is located or the address as listed in the property tax records;

(3) "Municipality", any incorporated city, town, or village;

(4) "Nuisance", any property which because of its physical condition or use is a public nuisance or any property which constitutes a blight on the surrounding area or any property which is in violation of the applicable housing code such that it constitutes a substantial threat to the life, health, or safety of the public. For purposes of sections 447.620 to 447.640, any declaration of a public nuisance by a municipality pursuant to an ordinance adopted pursuant to sections 67.400 to 67.450, RSMo, shall constitute prima facie evidence that the property is a nuisance;

(5) "Organization", any Missouri not-for-profit organization validly organized pursuant to law and whose purpose includes the provision or enhancement of housing opportunities in its community **and which has been incorporated for at least six months**;

(6) "Parties in interest", any owner or owners of record, occupant, lessee, mortgagee, trustee, personal representative, agent, or other party having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located, except in any municipality contained wholly or partially within a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, "parties in interest" shall mean owners, lessees, mortgagees, or lienholders whose interest has been recorded or filed in the public records;

(7) "Rehabilitation", the process of improving the property, including, but not limited to, bringing the property into compliance with the applicable housing code.

447.622. PETITION, REQUIREMENTS. — Any organization may petition to have property declared abandoned pursuant to the provisions of sections 447.620 to 447.640 and for temporary possession of such property, if:

(1) The property has been continuously unoccupied by persons legally entitled to possession for at least **[**one month**] six months** prior to the filing of the petition;

(2) The taxes are delinquent on the property;

(3) The property is a nuisance; and

(4) The organization intends to rehabilitate the property.

447.625. PROCEDURES IN HOME RULE CITIES. — 1. Any petition filed under the provisions of sections 447.620 to 447.640 which pertains to property located within any home rule city **[**with more than four hundred thousand inhabitants and located in more than one county**]** shall meet the requirements of this section.

2. Summons shall be issued and service of process shall be had as in other in rem or quasi in rem civil actions.

3. The petition shall contain a prayer for a court order approving the organization's rehabilitation plan and granting temporary possession of the property to the organization. The petition shall also contain a prayer for a sheriff's deed conveying title to the property to the organization upon the completion of rehabilitation when no owner has regained possession of the property pursuant to section 447.638.

4. The court shall stay any ruling on the organization's prayer for a sheriff's deed until rehabilitation has been completed.

5. The owner may file a motion for restoration of possession of the property prior to the completion of rehabilitation. The court shall determine whether to restore possession to the owner and proper compensation to the organization in the same manner as in section 447.638.

6. Upon completion of rehabilitation the organization may file a motion for sheriff's deed in place of a petition for judicial deed under section 447.640.

7. The provisions of sections 447.620 to 447.640 shall apply except where they are in conflict with this section.

447.640. QUITCLAIM JUDICIAL DEED MAY BE GRANTED, CONDITIONS, EFFECT. — If an owner does not regain possession of the property in the one-year period following entry of an order granting temporary possession of the property to the organization, the organization may file a petition for judicial deed and, upon due notice to the named defendants, an order may be entered granting a quitclaim judicial deed to the organization. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, except tax liens. **Any party in interest of the property shall present any claim for compensation prior to the entering of the court order conveying title to the organization.**

473.770. DEPUTIES, APPOINTMENT, TENURE, COMPENSATION, POWERS (FIRST CLASSIFICATION COUNTIES) — DELEGATION OF DUTIES, CERTAIN COUNTIES. — 1. Whenever, in the judgment of any public administrator in any county of the first class, it is necessary for the proper and efficient conduct of the business of **[**his**] the public administrator's** office that **[**he**] the public administrator** appoint any deputies to assist **[**him**] the public administrator** in the performance of his **or her** official duties as public administrator or as executor, administrator, personal representative, guardian, or conservator in any estates wherein **[**he**] the public administrator** has been specially appointed, the public administrator may appoint one or more deputies to assist him **or her** in the performance of his **or her** duties as public administrator and as executor, administrator, personal representative, guardian, or conservator in the estates wherein **[**he**] the public administrator** has been specially appointed. The appointment shall be in writing and shall be filed with the court, and, upon the filing, the court shall issue under its seal a certificate of the appointment for each deputy, stating that the

appointee is vested with the powers and duties conferred by this section. The certificate shall be valid for one year from date, unless terminated prior thereto, and shall be renewed from year to year as long as the appointment remains in force, and may be taken as evidence of the authority of the deputy. The appointment and authority of any deputy may at any time be terminated by the public administrator by notice of the termination filed in the court, and upon termination the deputy shall surrender **[**his**] the public administrator's** certificate of appointment.

2. In all **[**first class**]** counties **of the first classification** not having a charter form of government and containing a portion of a city having a population of three hundred thousand or more inhabitants, the compensation of each such deputy shall be set by the public administrator, with the approval of the governing body of the county, and shall be paid in equal monthly installments out of the county treasury. In all other **[**first class**]** counties **of the first classification** the compensation of each such deputy shall be prescribed and paid by the public administrator out of the fees to which he **or she** is legally entitled, and no part of such compensation shall be paid out of any public funds or assessed as costs or allowed in any estate.

3. Each deputy so appointed shall be authorized to perform such ministerial and nondiscretionary duties as may be delegated to him **or her** by the public administrator, including:

(1) Assembling, taking into possession, and listing moneys, checks, notes, stocks, bonds and other securities, and all other personal property of any and all estates in the charge of the public administrator;

(2) Depositing all moneys, checks, and other instruments for the payment of money in the bank accounts maintained by the public administrator for the deposit of such funds;

(3) Signing or countersigning any and all checks and other instruments for the payment of moneys out of such bank accounts, in pursuance of general authorization by the public administrator to the bank in which the same are deposited, as long as such authorization remains in effect;

(4) Entering the safe deposit box of any person or decedent whose estate is in the charge of the public administrator and any safe deposit box maintained by the public administrator for the safekeeping of assets in his **or her** charge, as a deputy of the public administrator, pursuant to general authorization given by the public administrator to the bank or safe deposit company in charge of any such safe deposit box, as long as such deputy-authorization remains in effect, and withdrawing therefrom and depositing therein such assets as may be determined by the public administrator. The bank or safe deposit company shall not be charged with notice or knowledge or any limitation of authority of the authorized deputy, unless specially notified in writing thereof by the public administrator, and may allow the deputy access to the safe deposit box, in the absence of notice, to the full extent allowable to the public administrator in person.

4. The enumeration of the foregoing powers shall not operate as an exclusion of any powers not specifically conferred. No authorized deputy shall exercise any power, other than as prescribed in this section, which shall require the exercise of a discretion enjoined by law to be exercised personally by the executor, administrator, personal representative, guardian, or conservator in charge of the estate to which the discretionary power refers.

5. Notwithstanding the provisions of subsections 3 and 4 of this section to the contrary, a public administrator in a county of the first **[**class**] classification** having a charter form of government and containing all or part of a city with a population of at least three hundred thousand inhabitants**, and a public administrator in any county of the first classification** may delegate to any deputy appointed by **[**him**] the public administrator** any of the duties of the public administrator enumerated in section 473.743, and sections 475.120 and 475.130, RSMo. Such public administrator may also delegate to a deputy who is a licensed attorney the authority to execute inventories, settlements, surety bonds, pleadings and other documents filed in any court in the name of the public administrator, and the same shall have the force and effect as if executed by the public administrator.

473.771. DEPUTIES, APPOINTMENT IN ALL COUNTIES BUT COUNTIES OF THE FIRST CLASSIFICATION — TENURE — COMPENSATION — POWERS — DELEGATION TO DEPUTIES. — 1. Whenever, in the judgment of any public administrator in any county which is not a **[**first class**]** county **of the first classification**, it is necessary for the proper and efficient conduct of the business of his **or her** office that **[**he**] the public administrator** appoint a deputy to assist **[**him**] the public administrator** in the performance of his **or her** official duties as public administrator or as executor, administrator, personal representative, guardian, or conservator in any estates wherein **[**he**] the public administrator** has been specially appointed, the public administrator may appoint a deputy to assist him **or her** in the performance of his **or her** duties as public administrator and as executor, administrator, personal representative, guardian, or conservator in the estates wherein **[**he**] the public administrator** has been specially appointed. The appointment shall be in writing and shall be filed with the court, and, upon the filing, the court shall issue under its seal a certificate of the appointment for the deputy, stating that the appointee is vested with the powers and duties conferred by this section. The certificate shall be valid for one year from the date, unless terminated prior thereto, and shall be renewed from year to year as long as the appointment remains in force, and may be taken as evidence of the authority of the deputy. The appointment and authority of a deputy may at any time be terminated by the public administrator by notice of the termination filed in the court, and upon termination the deputy shall surrender his **or her** certificate of appointment.

2. The compensation of a deputy appointed pursuant to the provisions of this section shall be prescribed and paid by the public administrator out of the fees to which he **or she** is legally entitled.

3. A deputy appointed pursuant to the provisions of this section shall be authorized to perform such ministerial and nondiscretionary duties as may be delegated to him **or her** by the public administrator, including:

(1) Assembling, taking into possession, and listing moneys, checks, notes, stocks, bonds and other securities, and all other personal property of any and all estates in the charge of the public administrator;

(2) Depositing all moneys, checks, and other instruments for the payment of money in the bank accounts maintained by the public administrator for the deposit of such funds;

(3) Signing or countersigning any and all checks and other instruments for the payment of moneys out of such bank accounts, in pursuance of general authorization by the public administrator to the bank in which the same are deposited, as long as such authorization remains in effect;

(4) Entering the safe deposit box of any person or decedent whose estate is in the charge of the public administrator and any safe deposit box maintained by the public administrator for the safekeeping of assets in his **or her** charge, as a deputy of the public administrator, pursuant to general authorization given by the public administrator to the bank or safe deposit company in charge of any such safe deposit box, as long as such authorization as a deputy remains in effect, and withdrawing therefrom and depositing therein such assets as may be determined by the public administrator. The bank or safe deposit company shall not be charged with notice or knowledge or any limitation of authority of the authorized deputy, unless specially notified in writing thereof by the public administrator, and may allow the deputy access to the safe deposit box, in the absence of notice, to the full extent allowable to the public administrator in person.

4. The enumeration of the foregoing powers shall not operate as an exclusion of any powers not specifically conferred. No authorized deputy shall exercise any power, other than as prescribed in this section, which shall require the exercise of a discretion enjoined by law to be exercised personally by the executor, administrator, personal representative, guardian, or conservator in charge of the estate to which the discretionary power refers.

5. Notwithstanding the provisions of subsections 3 and 4 of this section to the contrary, a public administrator in a county which is not a county of the first classification may delegate to any deputy appointed by the public administrator any of the duties of the

public administrator enumerated in section 473.743, and sections 475.120 and 475.130, RSMo. Such public administrator may also delegate to a deputy who is a licensed attorney the authority to execute inventories, settlements, surety bonds, pleadings, and other documents filed in any court in the name of the public administrator, and the same shall have the force and effect as if executed by the public administrator.

478.570. CIRCUIT NO. 17, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED. — 1. There shall be two circuit judges in the seventeenth judicial circuit consisting of the counties of Cass and Johnson. These judges shall sit in divisions numbered one and two.

2. The circuit judge in division two shall be elected in 1980. The circuit judge in division one shall be elected in 1982.

3. Beginning on January 1, 2006, there shall be one additional associate circuit judge position in Cass County than is provided under section 478.320.

478.600. CIRCUIT NO. 11, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED — DRUG COMMISSIONER TO BECOME ASSOCIATE CIRCUIT JUDGE POSITION. — 1. There shall be four circuit judges in the eleventh judicial circuit consisting of the county of St. Charles. These judges shall sit in divisions numbered one, two, three and four. **Beginning on January 1, 2007, there shall be six circuit judges in the eleventh judicial circuit and these judges shall sit in divisions numbered one, two, three, four, five, and seven. The division five associate circuit judge position and the division seven associate circuit judge position shall become circuit judge positions beginning January 1, 2007, and shall be numbered as divisions five and seven.**

2. The circuit judge in division two shall be elected in 1980. The circuit judge in division four shall be elected in 1982. The circuit judge in division one shall be elected in 1984. The circuit judge in division three shall be elected in 1992. **The circuit judges in divisions five and seven shall be elected for a six-year term in 2006.**

3. Beginning January 1, 2007, the family court commissioner positions in the eleventh judicial circuit appointed under section 487.020, RSMo, shall become associate circuit judge positions in all respects and shall be designated as divisions nine and ten respectively. These positions may retain the duties and responsibilities with regard to the family court. The associate circuit judges in divisions nine and ten shall be elected in 2006 for full four-year terms.

4. Beginning on January 1, 2007, the drug court commissioner position in the eleventh judicial circuit appointed under section 478.003 shall become an associate circuit judge position in all respects and shall be designated as division eleven. This position retains the duties and responsibilities with regard to the drug court. Such associate circuit judge shall be elected in 2006 for a full four-year term. This associate circuit judgeship shall not be included in the statutory formula for authorizing additional associate circuit judgeships per county under section 478.320.

488.2220. VIOLATION OF ORDINANCES, MUNICIPAL COURT CASES, ADDITIONAL COURT COSTS, CERTAIN CITIES (KANSAS CITY AND SPRINGFIELD). — 1. In addition to all other court costs for municipal ordinance violations any home rule city with more than four hundred thousand inhabitants and located in more than one county **and any home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants** may provide for additional court costs in an amount up to five dollars per case for each municipal ordinance violation case filed before a municipal division judge or associate circuit judge.

2. The judge may waive the assessment of the cost in those cases where the defendant is found by the judge to be indigent and unable to pay the costs.

3. Such cost shall be calculated by the clerk and disbursed to the city at least monthly. The city shall use such additional costs only for the procurement, installation, maintenance, consulting services, and upkeep of a court information and records management system.

537.600. SOVEREIGN IMMUNITY IN EFFECT — EXCEPTIONS. — 1. Such sovereign or governmental tort immunity as existed at common law in this state prior to September 12, 1977, except to the extent waived, abrogated or modified by statutes in effect prior to that date, shall remain in full force and effect; except that, the immunity of the public entity from liability and suit for compensatory damages for negligent acts or omissions is hereby expressly waived in the following instances:

(1) Injuries directly resulting from the negligent acts or omissions by public employees arising out of the operation of motor vehicles or motorized vehicles within the course of their employment;

(2) Injuries caused by the condition of a public entity's property if the plaintiff establishes that the property was in dangerous condition at the time of the injury, that the injury directly resulted from the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or wrongful act or omission of an employee of the public entity within the course of his employment created the dangerous condition or a public entity had actual or constructive notice of the dangerous condition in sufficient time prior to the injury to have taken measures to protect against the dangerous condition. In any action under this subdivision wherein a plaintiff alleges that he was damaged by the negligent, defective or dangerous design of a highway or road, which was designed and constructed prior to September 12, 1977, the public entity shall be entitled to a defense which shall be a complete bar to recovery whenever the public entity can prove by a preponderance of the evidence that the alleged negligent, defective, or dangerous design reasonably complied with highway and road design standards generally accepted at the time the road or highway was designed and constructed.

2. The express waiver of sovereign immunity in the instances specified in subdivisions (1) and (2) of subsection 1 of this section are absolute waivers of sovereign immunity in all cases within such situations whether or not the public entity was functioning in a governmental or proprietary capacity and whether or not the public entity is covered by a liability insurance for tort.

3. The term "public entity" as used in this section shall include any multi-state compact agency created by a compact formed between this state and any other state which has been approved by the Congress of the United States. **[**Sovereign immunity, if any, is waived for the proprietary functions of such multi-state compact agencies as of the date that the Congress of the United States approved any such multi-state compact.

4. Pursuant to the prerogative of the general assembly to declare the public policy of the state in matters concerning liability in tort for public entities, the general assembly declares that prior to September 12, 1977, there was no sovereign or governmental immunity for the proprietary functions of multistate compact agencies operating pursuant to the provisions of sections 70.370 to 70.440, RSMo, and 238.030 to 238.110, RSMo, including functions such as the operation of motor vehicles and the maintenance of property, involved in the operation of a public transit or public transportation system, and that policy is hereby reaffirmed and declared to remain in effect.

5. Any court decision dated subsequent to August 13, 1978, holding to the contrary of subsection 4 of this section erroneously interprets the law and the public policy of this state, and any claimant alleging tort liability under such circumstances for an occurrence within five years prior to February 17, 1988, shall in addition to the time allowed by the applicable statutes of limitation or limitation of appeal, have up to one year after July 14, 1989, to file or refile an action against such public entity and may recover damages imposed by the common law of this

state as for any other person alleged to have caused similar damages under similar circumstances.**]**

559.607. MUNICIPAL ORDINANCE VIOLATIONS, PROBATION MAY BE CONTRACTED FOR BY MUNICIPAL COURTS, PROCEDURE — COST TO BE PAID BY OFFENDERS, EXCEPTIONS. — 1. Judges of the municipal division in any circuit, acting through a chief or presiding judge, **either** may contract with a private **or public** entity **or may employ any qualified person to serve as the city's probation officer** to provide probation and rehabilitation services for persons placed on probation for violation of any ordinance of the city, specifically including the offense of operating or being in physical control of a motor vehicle while under the influence of intoxicating liquor or narcotic drugs. The contracting city shall not be required to pay for any part of the cost of probation and rehabilitation services authorized under sections 559.600 to 559.615. Persons found guilty or pleading guilty to ordinance violations and placed on probation by municipal or city court judges shall contribute **a service fee to the court in the amount set forth in section 559.604** to **pay** the cost of their probation supervision **provided by a probation officer employed by the court or by a contract probation officer** as provided for in section 559.604.

2. When approved by municipal court judges in **[**a circuit**]** **the municipal division**, the application, judicial order of approval, and the contract shall be forwarded to and filed with the board of probation and parole. The court-approved private **or public** entity **or probation officer employed by the court** shall then function as the probation office for the city, pursuant to the terms of the contract **or conditions of employment** and the terms of probation ordered by the judge. Any city in this state which presently does not have probation services available for persons convicted of its ordinance violations, **or that contracts out those services with a private entity** may, under the procedures authorized in sections 559.600 to 559.615, contract with a private entity **or employ any qualified person and contract with the municipal division** to provide such probation supervision and rehabilitation services.

644.076. UNLAWFUL ACTS PROHIBITED — FALSE STATEMENTS AND NEGLIGENT ACTS PROHIBITED — PENALTIES — EXCEPTION. — 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission. In the event the commission or the director determines that any provision of sections 644.006 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees created under section 249.1150 **[**or 249.1152**]**, or the director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department pursuant to this section, and shall identify any

dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to sections 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months, or by both.

3. Any person who willfully or negligently commits any violation set forth pursuant to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions for violation of the same provision of this section by any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

4. The liabilities which shall be imposed pursuant to any provision of sections 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe.

701.038. SEWAGE COMPLAINTS, INVESTIGATION BY DEPARTMENT, WHEN — RIGHT TO INSPECT ADJOINING PROPERTY, PROCEDURE REQUIRING NOTICE, EXCEPTION. — 1. The department of health and senior services or any of its agents may not investigate a sewage complaint except when necessary as part of a communicable disease investigation unless the complaint is received from an aggrieved party **or[,]** an adjacent landowner **[**, or any two residents of the county**]**. The department of health and senior services or any of its agents may enter any adjoining property if necessary when they are making an inspection pursuant to this section. The necessity for entering such adjoining property shall be stated in writing and the owner of such property shall be notified before the department or any of its agents may enter, except that, if an imminent health hazard exists, such notification shall be attempted but is not required.

2. If the department or its agents make an investigation pursuant to a complaint as described in subsection 1 of this section and find that a nuisance does exist, the property owner shall comply with state and local standards when repairing or replacing the on-site sewage disposal system.

701.053. REGISTERED ON-SITE DISPOSAL SYSTEM CONTRACTOR, FORM, QUALIFICATIONS — REGISTRATION ISSUED BY COUNTY TO BE DEEMED STATE REGISTRATION. — 1. A person may not represent himself as a registered on-site sewage disposal system contractor in this state unless the person is registered by a county or the department. A county or the department shall issue registration to a contractor if the contractor completes an application form that is in compliance with sections 701.025 to 701.059 and the rules and regulations adopted thereunder. A registration issued by a county in compliance with sections 701.053 to 701.055 shall be considered a state registration and valid in all political subdivisions of the state.

2. To qualify for registration, a contractor must successfully complete the educational training program provided by the department**, or a county that offers on-site sewage disposal system contractor training that has been certified by the department and has an ordinance or regulation that mandates contractor training**.

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY STATE PROPERTY IN BUCHANAN COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant

and convey all interest in fee simple absolute in property owned by the state in Buchanan County. The property to be conveyed is more particularly described as follows:

All of Lot one (1) and the North Sixteen (16) feet of Lot Two (2) in Block Ten (10) in SMITH'S ADDITION to the City of St. Joseph, Missouri.

The South forty-four (44) feet of Lot Two (2) and the North Four (4) feet of Lot Three (3) in Block Ten (10) in SMITH'S ADDITION to the City of St. Joseph, Missouri.

All of Lot Three (3) except the north four feet thereof and all of Lot Four (4) in Block Ten (10) in SMITH'S ADDITION, to the City of St. Joseph, Missouri.

This property is used by the Division of Workforce Development as a career center.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY STATE PROPERTY IN PARK HILLS, ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized to remise, release, and forever quit claim all interest of the state of Missouri in the following described real property located in Park Hills, St. Francois County, to wit:

All of that part of Block 4 of Doe Run Lead Company's Subdivision of the Town of Flat River in St. Francois County, Missouri, as recorded in Book 5 at Pages 6 and 7. Begin at the Southeast corner of Lot 13, Block 4 of said Subdivision; thence South 52 degrees 58 minutes West, 135 feet on the North line of Coffman Street to the point of beginning of the tract herein described; thence continue South 52 degrees 58 minutes West, 125 feet on the North line of Coffman Street; thence North 37 degrees 2 minutes West, 140 feet; thence North 52 degrees 58 minutes East, 125 feet; thence South 37 degrees 2 minutes East, 140 feet to the point of beginning. The above described tract includes a part of Lots 14, 15 and 16 of Block 4 of said Subdivision and a part of an abandoned railroad right-of-way.

2. The commissioner of administration is directed to conduct a negotiated sale of the property by public bid, public auction, or through commercial real estate listing. The commissioner shall set the terms of the sale, including whether or not appraisals are required and whether or not a minimum acceptable bid shall be established.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. BASE SALARY SCHEDULES FOR COUNTY OFFICIALS — SALARY COMMISSION RESPONSIBLE FOR COMPUTATION OF COUNTY OFFICIAL SALARIES, EXCEPT FOR CHARTER COUNTIES. — Notwithstanding any other provisions of law to the contrary, the salary schedules contained in sections 49.082, RSMo, 50.334, RSMo, 50.343, RSMo, 51.281, RSMo, 51.282, RSMo, 52.269, RSMo, 53.082, RSMo, 53.083, RSMo, 54.261, RSMo, 54.320, RSMo, 55.091, RSMo, 56.265, RSMo, 57.317, RSMo, and 58.095, RSMo, shall be set as a base schedule for those county officials, unless the current salary of such officials, as of August 28, 2005, is lower than the compensation provided under the salary schedules. Beginning August 28, 2005, the salary commission in all counties except charter counties in this state shall be responsible for the computation of salaries of all county officials; provided, however, that any percentage salary adjustments in a county shall be equal for all such officials in that county.

SECTION 4. RECREATION SALES TAX AUTHORIZED (MADISON COUNTY) — BALLOT LANGUAGE — RATE, USE OF MONEYS — EXPIRATION DATE. — 1. Any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but fewer than eleven thousand eight hundred fifty inhabitants may impose a sales tax throughout the county for public recreational projects and programs, but the sales tax authorized by this section shall not become effective unless the governing

body of such county submits to the qualified voters of the county a proposal to authorize the county to impose the sales tax.

2. The ballot submission shall be in substantially the following form:

Shall the County of ..... impose a sales tax of up to one percent for the purpose of funding the financing, acquisition, construction, operation, and maintenance of recreational projects and programs, including the acquisition of land for such purposes?

[ ] YES [ ] NO

3. If approved by a majority of qualified voters in the county, the governing body of the county shall appoint a board of directors consisting of nine members. Of the initial members appointed to the board, three members shall be appointed for a term of three years, three members shall be appointed for a term of two years, and three members shall be appointed for a term of one year. After the initial appointments, board members shall be appointed to three-year terms.

4. The sales tax may be imposed at a rate of up to one percent on the receipts from the retail sale of all tangible personal property or taxable service within the county, if such property and services are subject to taxation by the state of Missouri under sections 144.010 to 144.525, RSMo.

5. All revenue collected from the sales tax under this section by the director of revenue on behalf of a county, less one percent for the 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 with the state treasurer in a special trust fund, which is hereby created, to be known as the "County Recreation Sales Trust Fund". Moneys in the fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund collected in each county imposing a sales tax under this section, and the records shall be open to the inspection of officers of such county and the general public. Not later than the tenth day of each calendar month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding calendar month by distributing to the county treasurer, or such officer as may be designated by county ordinance or order, of each county imposing the tax under this section the sum due the county as certified by the director of revenue.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. Each county shall notify the director of revenue at least ninety days prior to the effective date of the expiration of the sales tax authorized by this section 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 overpayments of such tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the date of expiration of the tax authorized by this section in a county, the director of revenue shall remit the balance in the account to the county and close the account of such county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due such county.

7. The tax authorized under this section may be imposed in accordance with this section by a county in addition to or in lieu of the tax authorized in sections 67.750 to 67.780, RSMo.

8. The sales tax imposed under this section shall expire twenty years from the effective date thereof unless an extension of the tax is submitted to and approved by the qualified voters in the county in the manner provided in this section. Each extension of the sales tax shall be for a period of ten years.

9. The provisions of this section shall not in any way affect or limit the powers granted to any county to establish, maintain, and conduct parks and other recreational grounds for public recreation.

10. Except as modified in this section, the provisions of section 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

SECTION 5. DEPARTMENT OF NATURAL RESOURCES AUTHORIZED TO CONVEY STATE PROPERTY AT FORT DAVIDSON STATE HISTORIC PARK TO THE CITY OF PILOT KNOB. — 1. The department of natural resources is hereby authorized and empowered to remise, release and forever quit claim the following described property at Fort Davidson State Historic Park to the City of Pilot Knob, Missouri. The property to be conveyed is more particularly described as follows:

A tract of land situated in the City of Pilot Knob, County of Iron and the State of Missouri, lying in Part of Section 30, Township 34 North, Range 4 East of the Fifth Principal Meridian, described as follows, to wit:

Commencing at the common corner of Sections 29, 30, 31 and 32, Township 34 North, Range 4 East, described on Survey Document Number 600-64159 as shown on a survey by PLS-2550 dated January 20, 2000 and filed with the Missouri Land Survey in Document Number 750-26834; thence along the line between Sections 29 and 30, North 00545'46" East, 982.52 feet to an iron pin with cap by said PLS 2550; thence leaving said section line, West, 768.18 feet to an iron pin with cap by said PLS 2550 on the East right-of-way line of a County Road; thence along said County Road, North 30550'55" West, 596.36 feet to the POINT OF BEGINNING of the tract herein described; thence continuing along said East right-of-way line, North 30550'55" West, 6.84 feet to an iron pin with cap by said PLS 2550; thence leaving said East right-of-way line, North 07530'05" West, 132.59 feet to a drill rod; thence North 24507'24" West, 467.55 feet to an iron pin with cap by said PLS 2550; thence North 37510'36" East, 265.27 feet to a drill rod; thence South 25547'23" East, 332.36 feet to an iron pin; thence South 22556'24" East, 642.56 feet to an iron pin; thence South 86524'35" West, 573.80 feet to the point of beginning. Containing 9.07 Acres, more or less and being part of a larger parcel described in Book 359 at Page 756 of the Land Records of Iron County, Missouri.

2. In consideration for the conveyance in subsection 1 of this section, the department of natural resources is hereby authorized to receive via quit claim deed the following property from the City of Pilot Knob, Iron County, Missouri. The property to be conveyed to the department is more particularly described as follows:

A parcel of land lying in Lot 57, Lot 61, Lot 71, Lot 72, and Lot 73 of the Big Muddy Coal and Iron Company Subdivision in Section 30, Township 34 North, Range 4 East and described as follows: Begin at an iron rod on the south line of Industrial Drive and said point is 2260.06 feet North 58 degrees 08 minutes 17 seconds West from the southeast corner of Section 30, Township 34 North, Range 4 east. Run thence from said point of beginning along the south line of Industrial Drive the following bearings and distances: South 79 degrees 20 minutes 38 seconds West 59.61 feet to an iron rod; thence North 83 degrees 59 minutes 02 seconds West 73.29 feet to an iron rod; thence North 76 degrees 39 minutes 07 seconds West 70.87 feet to an iron rod; thence North 59 degrees 39 minutes 09 seconds West 81.32 feet to a point; thence North 50 degrees 41 minutes 13 seconds West 202.01 feet to an iron rod; thence North 50 degrees 12 minutes 13 seconds West 199.04 feet to an iron rod; thence North 54 degrees 18 minutes 13 seconds 103.10 feet to a point; thence North 62 degrees 12 minutes 18 seconds West 81.76 feet to an iron rod; thence North 74 degrees 14 minutes 23 seconds West 96.33 feet to an iron rod; thence North 83 degrees 19 minutes 02 seconds West 171.17 feet to an iron rod at the intersection of the South line of Industrial Drive and East right of way of Route "V"; thence South 08 degrees 29 minutes 48 seconds East 88.71 feet to a right of way marker on the east right

of way of Route "V"; thence South 03 degrees 23 minutes 42 seconds west 67.34 feet to an iron rod on the east right of way of Route "V"; thence departing said right of way South 71 degrees 24 minutes 35 seconds east 111.02 feet to an iron pipe; thence South 31 degrees 58 minutes 22 seconds East 136.47 feet to a driven grader blade; thence South 27 degrees 15 minutes 19 seconds East 110.16 feet to an iron rod; thence North 42 degrees 11 minutes 24 seconds East 96.54 feet to a point; thence South 27 degrees 25 minutes 37 seconds East 127.75 feet to an iron rod; thence South 24 degrees 25 minutes 37 seconds East 187.70 feet to an iron rod; thence South 30 degrees 49 minutes 37 seconds East 141.40 feet to a point; thence South 43 degrees 30 minutes 37 seconds East 186.20 feet to an iron rod; thence South 62 degrees 20 minutes 37 seconds East 205.0 feet to an iron rod; thence North 33 degrees 30 minutes 23 seconds East 47.0 feet to an iron rod; thence South 56 degrees 26 minutes 37 seconds east 140.40 feet to a point in Knob Creek; thence North 03 degrees 10 minutes 09 seconds East 548.68 feet to the point of beginning, containing 9.07 acres more or less.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO CONVEY STATE PROPERTY IN COLE COUNTY (STATE HEALTH LAB AND EDP BUILDING). — 1. The governor is hereby authorized to remise, release, and forever quit claim all interest of the state of Missouri in property owned by the state in Cole County commonly known as the state health lab and the EDP building, if a feasibility study conducted by the office of administration determines that there is no longer any beneficial use for these buildings by the state of Missouri. If the study so concludes, the commissioner of administration shall set the terms of the sale including whether it is a negotiated sale or by public bid or auction. The property to be conveyed is more particularly described as follows:

Part of Inlot No. 566, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning on the southerly line of said Inlot, at a point 35 feet easterly from the southwesterly corner thereof; thence easterly along the said southerly line, 32 feet; thence northerly parallel with Mulberry Street, 86 feet; thence westerly parallel with the southerly line of said Inlot, 32 feet; thence southerly parallel with Mulberry Street, 86 feet, to the point of beginning.

ALSO: Part of Inlots Nos. 566 and 567, in the City of Jefferson, Missouri, more particularly described as follows:

From the southwesterly corner of said Inlot No. 566; thence easterly along the southerly line thereof, 67 feet, to the southeasterly corner of a tract conveyed to Joseph R. Kroeger and wife, by deed of record in Book 172, page 693, Cole County Recorder's Office, and the beginning point of this description; thence northerly along the easterly line of the said Kroeger tract, 86 feet, to the northeasterly corner thereof; thence easterly parallel with the southerly line of Inlots Nos. 566 and 567, 51 feet; thence southerly parallel with the easterly line of the said Kroeger tract, 86 feet, to the southerly line of Inlot No. 567; thence westerly along the southerly line of Inlots Nos. 567 and 566, 51 feet, to the beginning point of this description.

40 feet off of the easterly side of Inlot No. 565 in the City of Jefferson, Missouri, and more particularly described as follows:

Beginning at the northeasterly corner of said Inlot 565 on McCarty Street, thence running westerly along McCarty Street 40 feet; thence southerly parallel with Mulberry Street 198 feet 9 inches to the Public Alley; thence easterly along said alley 40 feet; thence northerly along the line between Inlots Nos. 565 and 566, 198 feet 9 inches to the point of beginning.

Part of Inlot 566 in the City of Jefferson, Missouri, described as follows:

Beginning at the northwesterly corner of said inlot; thence easterly along McCarty Street, 35 feet; thence southerly parallel with Mulberry Street, 198 feet 9 inches; thence westerly along alley, 35 feet; thence northerly parallel with Mulberry Street, 198 feet 9 inches to beginning.

The southwesterly part of Inlot No. 565, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning at the southwesterly corner of said Inlot No. 565; thence northerly with the westerly line thereof, 45 feet; thence easterly parallel with the southerly line thereof, 64 feet 4 ½ inches; thence southerly parallel with the westerly line, 45 feet, to the southerly line thereof; thence westerly with the southerly line, 64 feet 4 ½ inches, to the point of beginning.

Part of Inlot No. 565, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning at a point on the westerly line of said Inlot, which said point is 45 feet northerly from the southwesterly corner thereof; thence easterly parallel with McCarty Street, 64 feet 4-1/2 inches; thence northerly parallel with Mulberry Street, 36 feet 10-1/2 inches; thence westerly parallel with McCarty Street; 64 feet 4-1/2 inches, to the westerly line of said Inlot; thence southerly along the westerly line of said Inlot, 36 feet 10-1/2 inches, to the point of beginning.

The northeasterly part of Inlot No. 566, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning at the northeasterly corner of said Inlot No. 566; thence westerly along the northerly line thereof, 37 feet 4 inches; thence southerly parallel with the easterly line of said Inlot, 112 feet 9 inches; thence easterly parallel with the southerly line of said Inlot No. 566, 37 feet 4 inches, to the easterly line of said Inlot; thence northerly along said easterly line, 112 feet 9 inches, to the point of beginning.

Also

Part of the westerly half of Inlot No. 567, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning at the northwesterly corner of said Inlot No. 567; thence easterly along the northerly line thereof, 52 feet 2-1/4 inches; thence southerly parallel with the westerly 1ine of said Inlot, 198 feet 9 inches, to the southerly line thereof; thence westerly along the said southerly line, 38 feet 6-1/4 inches, more or less, to the southeasterly corner of a tract conveyed to Joseph L. Kroeger and wife, by deed of record in Book 200, page 33, Cole County Recorder's Office; thence northerly along the easterly line thereof, 86 feet, to the northeasterly corner of said tract; thence westerly along the northerly line thereof, 13 feet 8 inches, more or less, to the westerly line of said Inlot No. 567; thence northerly along the said westerly line, 112 feet 9 inches, to the point of beginning.

Part of Inlot 566 in the City of Jefferson, Missouri, described as follows:

Beginning on the northerly line of said Inlot at a point which is 35 feet easterly of the northwest corner thereof, thence easterly along said northerly line 32 feet; thence southerly parallel with Mulberry Street 112 feet 9 inches; thence westerly parallel with the northerly line of said Inlot 32 feet; thence northerly 112 feet 9 inches to point of beginning.

Part of Inlot No. 567, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning on the northerly line of said Inlot No. 567, a distance of 12 feet 2 1/4 inches westerly from the northeasterly corner thereof; thence westerly along said northerly line, a distance of 40 feet; thence southerly parallel with the easterly line of said Inlot, a distance of 92 feet 3 inches, to the northerly line of a private alley; thence easterly along said northerly line of said alley and parallel with the northerly line of said Inlot, a distance of 40 feet; thence northerly parallel with the easterly line of said Inlot, a distance of 92 feet 3 inches, to the point of beginning.

Also the use of a 10 foot private alley touching upon and immediately adjacent to the southerly boundary line of the above described tract and running to the easterly line of Inlot No. 568.

Part of Inlots Nos. 567 and 568, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning on the northerly line of Inlot No. 568, 65 feet westerly from the northeasterly corner of said Inlot; thence westerly along the northerly line of Inlots Nos. 568 and 567, 51 feet 6-3/4 inches; thence southerly parallel with the westerly line of Inlot No. 568, 92 feet 3 inches, to the northerly line of a private alley; thence easterly along the northerly line of said alley and parallel with the northerly line of Inlots Nos. 567 and 568, 51 feet 6-3/4 inches; thence northerly parallel with the easterly line of said Inlot No. 568, 92 feet 3 inches, to the point of beginning.

Also the use of a ten foot private alley touching upon and immediately adjacent to the southerly boundary line of the above described tract and running to the easterly boundary line of Inlot No. 568.

Part of Inlot No. 568, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning at the northeasterly corner of Inlot No. 568; thence westerly along the northerly line thereof, 65 feet; thence southerly parallel with the easterly line of said Inlot, 92 feet 3 inches; thence easterly parallel with the northerly line of said Inlot 65 feet, to the easterly line thereof; thence northerly along said easterly line, a distance of 92 feet 3 inches, to the point of beginning.

ALSO: A private alley, subject to existing easements, more particularly described as follows:

Beginning at a point on the easterly line of said Inlot No. 568, in the City of Jefferson, Missouri, said point being 96 feet 6 inches northerly of the southeasterly corner of said Inlot; thence northerly along the said easterly line, 10 feet; thence westerly parallel with McCarty Street, 156 feet 6-3/4 inches, to a point 52 feet 2-1/4 inches westerly of the easterly line of Inlot No. 567; thence southerly parallel with Broadway Street, 106 feet 6 inches, to the southerly line of Inlot No. 567; thence easterly along the southerly line of said Inlot, 10 feet; thence northerly parallel with Broadway Street, 96 feet 6 inches; thence easterly parallel with McCarty Street, 146 feet 6 3/4 inches, to the point of beginning; per Decree of the Circuit Court of Cole County, Missouri, entered March 7, 1925.

Part of Inlot No. 565 in the City of Jefferson, Missouri, described as follows:

Beginning at the northwesterly corner of said inlot; thence easterly along the northerly line thereof 64 feet 4-1/2 inches; thence southerly parallel with the westerly line of said inlot 80 feet; thence westerly parallel with the northerly line of said inlot 64 feet 4-1/2 inches; thence northerly along westerly line of said inlot 80 feet to the point of beginning.

Part of Inlot 565 in the City of Jefferson, Missouri, and more particularly described as follows:

Beginning at a point on the westerly line of said Inlot 565 which is 80 feet southerly from the northwesterly corner of said Inlot, thence southerly along the westerly line thereof 36 feet 10-1/2 inches, thence easterly parallel with McCarty Street, 64 feet 4-1/2 inches, thence northerly parallel with Mulberry Street 36 feet 10-1/2 inches, thence westerly parallel with McCarty Street 64 feet 4-1/2 inches to the point of beginning.

The northerly parts of Inlots Nos. 569, 570, 571 and 572, in the City of Jefferson, County of Cole, Missouri, more particularly described as follows:

Beginning at the northwesterly corner of said Inlot No. 569; thence southerly along the westerly line of said Inlot No. 569, 63.0 feet more or less to the northerly right-of-way line of U.S. Highway No. 50, thence easterly along said northerly right-of-way line of U.S. Highway No. 50, said Line also being the southerly line of tracts in said Inlots described

in Book 238, Page 323; Book 242, Page 338; Book 254, Page 856; and Book 258, Page 423, Cole County Recorder's Office, to the westerly line of Lot No. 3 of a Subdivision of Inlots No. 571 and 572, per plat of record in Plat Book 1, page 75, Cole County Recorder's Office; thence continuing northerly along said right-of-way line and said westerly line of Lot No. 3 to the southwesterly corner of Lot #2 of said Subdivision; thence easterly along said right-of-way line and the southerly line of said Lot No. 2, 100.0 feet to the easterly line of said Lot No. 2, said easterly line also being the easterly line of Inlot No. 572 and the westerly line of Broadway Street; thence leaving said northerly line of Hwy. 50, northerly along the easterly line of said Inlot No. 572, 48.75 feet, to the northeasterly corner of Inlot No. 572; thence easterly along the northerly line of said Inlots Nos 572, 571, 570 and 569, said northerly line also being the southerly line of a City Alley, 417.6 feet more or less to the point of beginning.

ALSO: Part of Inlots Nos. 567 and 568 in the City of Jefferson, County of Cole, Missouri, more particularly described as follows:

Beginning at the Southeasterly corner of said Inlot No. 568; thence northerly along the easterly line of said Inlot No. 568; 106.5 feet; thence westerly parallel with McCarty Street, 156 feet 6-3/4 inches; thence southerly parallel with said easterly line, 106.5 feet to the southerly line of Outlot No. 567; thence easterly along the southerly line of Outlots Nos. 567 and 568, 156 feet 6-3/4 inches to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO CONVEY STATE PROPERTY IN LAFAYETTE COUNTY. — 1. The governor of the state of Missouri is hereby authorized to remise, release, and forever quit claim all interest of the state of Missouri in the following described real property located in Lafayette County, to wit:

A part of the South half of Section 22, described as follows:

Beginning at a stake 7.15 chains West of the Southeast corner of the West half of the Southeast Quarter of said Section 22, thence North 28.64 chains to a stake on the right bank of the Missouri River; thence in a Southwesterly direction with the meanders of said river 37.65 chains to the Section line between Sections 22 and 27, thence East on said section line 26.75 chains to the place of beginning, containing 38.27 acres, more or less.

Also a tract of 3.15 acres being a tract 4.32 chains long North and South by 7.15 chains wide East and West, in the Southeast corner of the West half of the Southeast Quarter of said Section 22.

Also 37 acres, more or less, described as follows: Part of the North half of Section 27, beginning at the one sixteenth section corner North of the Northeast Quarter of said Section 27, thence South 12.62 chains to a stake, thence South 79 degrees West 16.92 chains to a stake thence North 47 degrees West 25.23 chains to a stake on the right bank of the Missouri River and in the North boundary line of said Section 27, thence East with said boundary line 33.90 chains to the beginning, except from said last described tract the following: Part of the Northwest Quarter of the Northeast Quarter of said Section 27, commencing at a point 1.25 chains South and 20.5 links West of the one sixteenth section corner North of the Northeast Quarter of the said Section 27, thence South 71 degrees and 30 minutes West 3.89 chains to a stake on the East side of a road, thence South 3 degrees West parallel with the County road 10.96 chains to a stake, thence East 4.48 chains to a point 20.5 links West of the line between the Northeast Quarter of the Northeast Quarter and the Northwest Quarter of the Northeast Quarter of said Section 27, thence North parallel with said line 11.58 chains to the beginning, containing 4.94 acres of land, the land so excepted being the same land conveyed to Peter M. LeNoach and wife by deed of

record in the recorder's office in said county in book 234 at page 248 all the land hereby conveyed being in Township 51, Range 27 and containing in the aggregate 65.17 acres more or less.

Also beginning at a point 285 feet North and 325 West of the sixteenth section corner between the Southeast Quarter of Section 22 and the Northeast Quarter of Section 27, Township 51, Range 27, thence East 125 feet, thence in a Northwesterly direction with a right hand curve 125 foot radius to a point 3 degrees and 10 minutes East of the point of beginning, thence North 3 degrees and 10 minutes East 680 feet, thence West 195, thence South parallel with the line between the East and West halves of the Southeast Quarter of said Section 22, 804 feet, thence East 150 feet to the beginning, containing 3.27 acres.

Also part of the Northwest Quarter of the Northeast Quarter of Section 27, Township 51, Range 27, described as follows: Beginning at a stake 1313.3 feet South and 478.6 feet West of the one sixteenth section corner North of the Northeast Quarter of said Section 27, thence West 296 feet to a stake, thence North 301 feet to a stake, thence North 79 degrees East 459.3 feet to a stake in the West side of public road, thence South 20 degrees and 30 minutes West 429.6 feet to the place of beginning, and containing 3.16 acres, said last described tract being the same tract conveyed to grantor by John H. Mindrup and wife by deed of record in said recorder's office in book 271 at page 197; and excepting from land above described a roadway conveyed to Peter Roland by deed of record in said recorder's office in book 213 at page 288.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. Proceeds from the sale of the property less costs associated with the sale shall be deposited in the veterans commission capitol improvement trust fund.

4. The attorney general shall approve the form of the instrument of conveyance.

[249.1152. RESOLUTION OR PETITION, CONTENTS — COUNTY ORDER OR ORDINANCE, CONTENTS — HEARING PROCEDURES — PROPERTY TAX LEVY, BALLOT FORM — BOARD OF TRUSTEES CREATED, MEMBERS, TERMS — AUTHORITY OF DISTRICT — DISSOLUTION OF A DISTRICT, PROCEDURES. — 1. Upon the adoption of a resolution by the governing body of any county of the third classification located within any watershed in this state, or upon the filing of a petition by the property owners residing within the portion of the watershed that is located within the county's boundaries, a watershed improvement district may be proposed as authorized in this section. The resolution or the petition shall contain the following information:

(1) The specific description of the watershed, which shall be identical to any United States geological survey designated watershed, and the proposed district within the county including a map illustrating the boundaries of both the watershed and the proposed district;

(2) The name of the proposed district;

(3) If the creation of the district is proposed by petition filed by property owners, the name and residence of each petitioner; and

(4) The purpose of the district.

2. Upon the adoption of a resolution proposing the creation of the district under this section, the governing body of the county shall, by order or ordinance, provide a hearing on the creation of the district. The order or ordinance providing a hearing on the creation of such a district shall contain the following information:

(1) A description of the boundaries of the proposed district; and

(2) The time and place of a hearing to be held to consider establishment of the proposed district.

3. Whenever a hearing is held as provided by this section, the governing body of the county approving the proposed district shall:

(1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing. The purpose of the district shall be published in the hearing notice;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Rule upon all protests, which determinations shall be final.

4. Following the hearing, if the governing body of any county located within the proposed district decides to establish the proposed district, the county shall adopt an order to that effect. If the governing body of any county located within the proposed district receives a petition signed by at least twenty percent of the property owners in the proposed district requesting establishment of the proposed district then the county shall adopt an order to that effect. An order adopted under this subsection shall contain the following:

(1) The description of the boundaries of the watershed, which shall be identical to any United States geological survey designated watershed, and the boundaries of the district within the county;

(2) A statement that a watershed improvement district has been established;

(3) The name of the district;

(4) A declaration that the district is a political subdivision of the state; and

(5) The purpose of the district.

5. A district established under this section may, at a general or primary election, submit to the qualified voters within the district boundaries a real property tax that shall not exceed five cents per one hundred dollars assessed valuation to fund the operation of the district. The ballot of submission shall be in substantially the following form:

Shall the ..... (name of district) impose a real property tax within the district at a rate of not more than ..... (insert amount) dollars per hundred dollars of assessed valuation to fund the operation of the district?

[ ] 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 in each county that is part of the district favor the proposal, then the real property tax shall become effective in the district on the first day of the year following the year of the election. If a majority of the votes cast in each county that is a part of the district oppose the proposal, then that county shall not impose the real property tax authorized in this section until after the county governing body has submitted another such real property tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a real property tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

6. The real property tax authorized by this section is in addition to all other real property taxes allowed by law.

7. Once the real property tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the tax. The tax shall not be abolished or terminated while the district has any financing or other obligations outstanding. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities.

8. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated under this section. The board shall consist of at least three but not more than ten individuals from the district. The board shall be appointed by the governing

body of each county in the district. The membership of the board shall to the extent practicable be in proportion to the number of people living in the watershed in each county. Each county located within the district shall be represented on the board by at least one trustee. Of the initial trustees appointed from each county, a majority shall serve terms of one year, and the remainder shall serve terms of two years, as determined by lot. After the initial appointments of the trustees, the trustees shall be elected by the property owners within the district. Each trustee may be elected to no more than five consecutive two-year terms. Vacancies shall be filled by the board. Each trustee shall serve until a successor is elected and sworn. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership.

9. A watershed improvement district created under this section is authorized to own, install, operate, and maintain decentralized or individual on-site wastewater treatment plants. A watershed improvement district created under this section shall be a body corporate and a political subdivision of the state of Missouri, shall be capable of suing and being sued in contract in its corporate name, and shall be capable of holding such real and personal property necessary for corporate purposes. The district shall implement procedures to regulate the area within and consistent with the purpose of the district and to educate property owners about the requirements imposed by the district.

10. A watershed improvement district created under this section shall have the power to borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property within the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property within the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

11. The county commission of any county located within a watershed improvement district may authorize individual properties to be served by the district by adoption of a resolution or upon the filing of a petition signed by at least twenty percent of the property owners of the proposed area. The resolution or petition shall describe generally the size and location of the proposed area.

12. In the event that any property within a watershed improvement district proposed under this section lies within or is serviced by any existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed improvement district formed under this section unless the existing sewer district agrees to refrain from providing service or to discontinue service to the property. No property shall become part of the watershed district until the owner of that property has paid in full all outstanding costs owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

13. No service shall be initiated to any property lying within the watershed improvement district created under this section unless the property owner elects to have the service provided by the district.

14. Any on-site wastewater treatment systems installed on any property that participates in the watershed improvement district formed under this section shall meet all applicable standards for such on-site wastewater treatment systems under sections 701.025 to 701.059, RSMo, and as required by rules or regulations promulgated by the appropriate state agencies.

15. Property owners participating in the watershed improvement district formed under this section shall be required as a condition of continued participation to have a maintenance plan approved by the watershed improvement district for the on-site wastewater treatment systems on their properties. Such property owners shall also execute a utilities easement to allow the district access to the system for maintenance purposes and inspections. The property owner shall provide satisfactory proof that periodic maintenance is performed on the sewage system. The level of satisfactory proof required and the frequency of periodic proof shall be determined by the board of trustees.

16. In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district.**]**

[249.1154. GROUNDWATER DEPLETION AREAS DESIGNATED — VOLUME MONITORING MAY BE REQUIRED. — The governing body of any county, by order or ordinance or upon the filing of a petition signed by at least twenty percent of the property owners in an area proposed for designation under this section, may designate groundwater depletion areas within a watershed improvement district created under section 249.1150 or 249.1152 and may require well volume monitoring.**]**

[640.635. WASTEWATER ANALYSIS, LICENSE REQUIRED, CRITERIA — RULEMAKING AUTHORITY — FEE, RATE. — Any person or laboratory performing an analysis of wastewater shall be licensed to perform the analysis by the department of natural resources. The department shall determine by rule or regulation the licensing criteria. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. The department may require the person or laboratory obtaining a license under this section to pay a fee to the department for licensure. The fee shall be set at a level not to exceed the cost and expense of administrating this section.**]**

Approved July 7, 2005

HB 64 [SS SCS HCS HB 64]

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

Authorizes an annual state sales tax holiday in August

AN ACT to repeal section 144.049, RSMo, and to enact in lieu thereof one new section relating to a sales tax holiday, with an emergency clause.

SECTION
A. Enacting clause.
144.049. Sales tax holiday for clothing, personal computers, and school supplies, when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 144.049, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.049, to read as follows:

144.049. SALES TAX HOLIDAY FOR CLOTHING, PERSONAL COMPUTERS, AND SCHOOL SUPPLIES, WHEN. — 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, backpacks, 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**] three hundred fifty** dollars or less.

2. **In each year beginning on or after January 1, 2005,** 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**] three hundred fifty** dollars or less, and all retail sales of personal computers or computer peripheral devices not to exceed **[**two thousand**] three thousand five hundred** dollars, during a three-day period beginning at 12:01 a.m. on the **[**second**] first** Friday in August and ending at midnight on the Sunday following.

3. **[**Beginning on August 28, 2003, 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.**] If the governing body of any political subdivision adopted an ordinance that applied to the 2004 sales tax holiday to prohibit the provisions of this section from allowing the sales tax holiday to apply to such political subdivision's local sales tax, then, notwithstanding any provision of a local ordinance to the contrary, the 2005 sales tax holiday shall not apply to such political subdivision's local sales tax. However, any such political subdivision may enact an ordinance to allow the 2005 sales tax holiday to apply to its local sales taxes. A political subdivision must notify the department of revenue not less than forty-five calendar days prior to the beginning date of the sales tax holiday occurring in that year of any ordinance or order rescinding an ordinance or order to opt out.**

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.**] This section applies to sales of items bought for personal use only.**

6. After the 2005 sales tax holiday, any political subdivision may, by adopting an ordinance or order, choose to prohibit future annual sales tax holidays from applying to its local sales tax. After opting out, the political subdivision may rescind the ordinance or order. The political subdivision must notify the department of revenue not less than forty-five calendar days prior to the beginning date of the sales tax holiday occurring in that year of any ordinance or order rescinding an ordinance or order to opt out.

7. This section may not apply to any retailer when less than two percent of the retailer's merchandise offered for sale qualifies for the sales tax holiday. The retailer shall offer a sales tax refund in lieu of the sales tax holiday.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent the imposition of state sales tax on retail sales of clothing, school supplies, and personal computers, 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 6, 2005

HB 69 [HB 69]

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 laws regarding investments by insurers

AN ACT to repeal sections 375.532 and 376.300, RSMo, and to enact in lieu thereof two new sections relating to investments of insurers.

SECTION
A. Enacting clause.
375.532. Investment in debt of institution permitted, when.
376.300. Investment of surplus and reserve funds.

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

SECTION A. ENACTING CLAUSE. — Sections 375.532 and 376.300, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 375.532 and 376.300, to read as follows:

375.532. INVESTMENT IN DEBT OF INSTITUTION PERMITTED, WHEN. — 1. **[**Notwithstanding any provision of subdivision (5) of subsection 1 of section 376.300, RSMo, to the contrary,**]** The capital, reserve and surplus of a domestic insurer may be invested in bonds, notes or other evidences of indebtedness**, or preferred or guaranteed stocks or shares** issued, assumed or guaranteed by an institution organized under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, if such bonds, notes or other evidences of indebtedness**, or preferred or guaranteed stocks or shares** shall carry at least the second highest designation or quality rating conferred by the Securities Valuation Office of the National Association of Insurance Commissioners, or some similar or equivalent rating by a nationally recognized rating agency which has been approved by the director.

2. As used in this section, the term "institution" means a corporation, a joint stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

376.300. INVESTMENT OF SURPLUS AND RESERVE FUNDS. — 1. All other laws to the contrary notwithstanding, the capital, reserve and surplus of all life insurance companies of whatever kind and character organized pursuant to the laws of this state shall be invested only in the following:

(1) Bonds, notes or other evidences of indebtedness, issued, assumed or guaranteed as to principal and interest, by the United States, any state, territory or possession of the United States, the District of Columbia, or of an administration, agency, authority or instrumentality of any of the political units enumerated, and of the Dominion of Canada;

(2) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed as to principal and interest by any foreign country or state not mentioned in subdivision (1) insofar as such bonds, notes or other evidences of indebtedness may be necessary or required in order to do business in such foreign state or country;

(3) Bonds, notes or other evidences of indebtedness issued, guaranteed or insured as to principal and interest, by a city, county, drainage district, levee district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision of a city, county, state, territory or possession of the United States or of the District of Columbia, provided such obligations are authorized by law;

(4) Loans evidenced by bonds, notes or other evidences of indebtedness guaranteed or insured, but only to the extent guaranteed or insured by the United States, any state, territory or possession of the United States, the District of Columbia, or by any agency, administration, authority or instrumentality of any of the political units enumerated;

(5) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed by a corporation organized under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, provided such bonds, notes or other evidences of indebtedness shall meet with the requirements of **[**either paragraph (a) or (b) of this subdivision:

(a) The issuing, assuming or guaranteeing corporation shall have had bonds, notes or other evidences of indebtedness outstanding for five years prior to the time of acquisition of such bonds or other evidences of indebtedness and shall not have defaulted in the payment of either principal or interest upon any of its outstanding indebtedness during such five-year period;

(b) Such bonds, notes or other evidences of indebtedness are not in default as to principal or interest; and

a. The net earnings of the issuing, assuming or guaranteeing corporation or corporations, for a period of five fiscal years next preceding the date of acquisition, shall have averaged per year not less than one and one-half times its or their annual fixed charges as of the date of acquisition; or

b. Such corporation or corporations, over the period of the five fiscal years immediately preceding purchase, shall have earned an average amount per annum at least equal to two times the amount of the yearly interest charges upon all its or their bonds, notes and other evidences of indebtedness of equal or prior lien outstanding at date of purchase**] section 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo**;

(6) (a) Notes, equipment trust certificates or obligations which are adequately secured, or other adequately secured instruments evidencing an interest in any equipment leased or sold to a corporation, other than the life insurance company making the investment or its parent or affiliates, which qualifies under subdivision (5) of this subsection for investment in its bonds, notes, or other evidences of indebtedness, or to a common carrier, domiciled within the United States or the Dominion of Canada, with gross revenues exceeding one million dollars in the fiscal year immediately preceding purchase, which provide a right to receive determined rental, purchase, or other fixed obligatory payments for the use or purchase of such equipment and which obligatory payments are adequate to retire the obligations within twenty years from date of issue; or

(b) Notes, trust certificates, or other instruments which are adequately secured. Such notes, trust certificates, or other instruments shall be considered adequately secured for the purposes of this paragraph if a corporation or corporations which qualify under subdivision (5) of this subsection for investment in their bonds, notes, or other evidences of indebtedness, are jointly or severally obliged under a binding lease or agreement to make rental, purchase, use, or other payments for the benefit of the life insurance company making the investment which are adequate to retire the instruments according to their terms within twenty years from date of issue;

(7) Preferred or guaranteed stocks or shares of any solvent corporation created or existing under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, if all of the prior obligations and prior preferred stocks, if any, of such corporation, at the date of acquisition, are eligible as investments under any provisions of this section; and if qualified under **[**paragraph (a) or paragraph (b) following:

(a) Preferred stocks or shares shall be deemed qualified if both of the following requirements are fulfilled:

a. The net earnings of such corporation available for its fixed charges for a period of five fiscal years next preceding the date of acquisition shall have averaged per year no less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements applicable to such period; and

b. During each of the last two years of such period, such net earnings shall have been no less than one and one-half times the sum of its fixed charges, contingent interest and preferred dividend requirements for each year. The term "preferred dividend requirements" shall be deemed to mean cumulative or noncumulative dividends, whether paid or not;

(b) Guaranteed stocks or shares shall be deemed qualified if the assuming or guaranteeing corporation meets the requirements of subparagraph a. of paragraph (b) of subdivision (5) of this subsection construed so as to include as a fixed charge the amount of guaranteed dividends of such issue or the rental covering the guarantee of such dividends**] section 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo**;

(8) Stocks or shares of insured state-chartered building and loan associations, federal savings and loan associations, if such shares are insured by the Federal Savings and Loan Insurance Corporation pursuant to the terms of Title IV of the act of the Congress of the United States, entitled "The National Housing Act" (12 U.S.C.A. Sections 1724 to 1730), as the same presently exists or may subsequently be amended, and federal home loan banks;

(9) Loans evidenced by notes or other evidences of indebtedness and secured by first mortgage liens on unencumbered real estate or unencumbered leaseholds having at least twenty-five years of unexpired term, such real estate or leaseholds to be located in the United States, any territory or possession of the United States. Such loans shall not exceed eighty percent of the fair

market value of the security of the loan for insurance companies. However, insurance companies may make loans in excess of eighty percent of the fair market value of the security for the loan, but not to exceed ninety-five percent of the fair market value of the security for the loan, if that portion of the total indebtedness in excess of seventy-five percent of the value of the security for the loan is guaranteed or insured by a mortgage insurance company authorized by the director of insurance to do business in this state, and provided the mortgage insurance company is not affiliated with the entity making the loan. In addition, an insurance company may not place more than two percent of its admitted assets in loans in which the amount of the loan exceeds ninety percent of the fair market value of the security for the loan. An entity which is restricted by section 104.440, RSMo, in making investments to those authorized life insurance companies may make loans in excess of eighty percent of the fair market value of the security of the loan if that portion of the total indebtedness in excess of eighty percent of the fair market value is insured by a mortgage insurance company authorized by the director of insurance to do business in this state. Any life insurance company may sell any real estate acquired by it and take back a purchase money mortgage or deed of trust for the whole or any part of the sale price; and such percentage may be exceeded if and to the extent such excess is guaranteed or insured by the United States, any state, territory or possession of the United States, any city within the United States having a population of one hundred thousand or more or by an administration, agency, authority or instrumentality of any such governmental units; and such percentage shall not exceed one hundred percent if such a loan is made to a corporation which qualifies pursuant to subdivision (5) for investment in its bonds, notes or other evidences of indebtedness, or if the borrower assigns to the lender a lease or leases on the real estate providing rentals payable to the borrower in amounts sufficient to repay such loan with interest in the manner specified by the note or notes evidencing such loan and executed as lessee or lessees by a corporation or corporations, which qualify pursuant to subdivision (5) for investment in its or their bonds, notes or other evidences of indebtedness. No mortgage loan upon a leasehold shall be made or acquired pursuant to this subdivision unless the terms of the mortgage loan shall provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient to completely amortize the loan within four-fifths of the term of the leasehold which is unexpired at the time the loan is made, but in no event exceeding thirty years. Real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

(a) Liens inferior to the lien securing the loan made by the life insurance company;

(b) Taxes or assessment liens not delinquent;

(c) Instruments creating or reserving mineral, oil or timber rights, rights-of-way, common or joint driveways, easements for sewers, walls or utilities;

(d) Building restrictions and other restrictive covenants; or

(e) An unassigned lease reserving rents or profits to the owner;

(10) Shares of stock, bonds, notes or other evidences of indebtedness issued, assumed or guaranteed by an urban redevelopment corporation organized pursuant to the provisions of chapter 353, RSMo, known as the "Urban Redevelopment Corporations Law", or any amendments thereto, or any law enacted in lieu thereof; provided, that one or more such life insurance companies may, with the approval of the director of the department of insurance, subscribe to and own all of the shares of stock of any such urban redevelopment corporation; and provided further, that the aggregate investment by any such company pursuant to the terms of this subdivision shall not be in excess of five percent of the admitted assets of such company;

(11) Land situated in this state and located within an area subject to redevelopment within the meaning of the urban redevelopment corporations law, or any amendments thereto, or any law enacted in lieu thereof, which land is acquired for the purposes specified in such urban redevelopment corporations law, and any such life insurance company may erect apartments, tenements or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices and other community services reasonably incident to such projects,

and such company may thereafter own, hold, rent, lease, collect or receive income, maintain and manage such land so acquired and the improvements thereon, as real estate necessary and proper for the carrying on of its legitimate business; provided, that any such life insurance company shall have power to own, hold, maintain and manage such land, and all improvements thereon, in accordance with the urban redevelopment corporations law, amendments thereto or any law enacted in lieu thereof, and shall have all the powers, duties, obligations, privileges and immunities, including any tax exemption, credits or relief, granted an urban redevelopment corporation, pursuant to the urban redevelopment corporations law, amendments thereto or any law enacted in lieu thereof, the same as if such insurance company were an urban redevelopment corporation organized pursuant to the provisions of that law; provided, that two or more such life insurance companies may, with the approval of the director of the department of insurance, enter into agreements whereby the ownership and management and control of a redevelopment project is participated in by each such company; and provided further that the aggregate investment by any such company pursuant to the terms of this subdivision shall not be in excess of five percent of the admitted assets of such company;

(12) Investments in property and processes for the development and production of solar or geothermal energy, fossil or synthetic fuels, or gasohol, whether made directly or as a participant in a general partnership, limited partnership or joint venture.

2. No such life insurance company shall invest in any of the foregoing securities in excess of the following percentages of the admitted assets of such company, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the insurance department of the state of Missouri:

(1) Ten percent of its admitted assets in the securities issued by any one corporation or governmental unit falling pursuant to the classification set forth in subdivisions (3), (5), (6), (7) and (8) of subsection 1;

(2) One percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in any single loan on real estate pursuant to subdivision (9) of subsection 1;

(3) Ten percent of the admitted assets in the total amount of securities described in subdivision (7) of subsection 1, and no such life insurance company shall own securities described in subdivision (7) of subsection 1 of any one corporation which, in the aggregate, represents more than five percent of the total of all outstanding shares of stock of that corporation;

(4) One percent of its admitted assets in the bonds, notes or other evidences of indebtedness of the Dominion of Canada and mentioned in subdivision (1) of subsection 1; provided, however, that in addition thereto any such life insurance company which has outstanding insurance contracts on lives of persons residing in the Dominion of Canada may invest in bonds, notes or other evidences of indebtedness of the Dominion of Canada and mentioned in subdivision (1) of subsection 1, to an amount not in excess of the total amount of its reserves and other accrued liabilities under such contracts;

(5) Five percent of its admitted assets in the notes or trust certificates secured by any equipment leased or sold to a corporation falling under the classification set forth in subdivision (5) of subsection 1 or to a common carrier domiciled in the Dominion of Canada and mentioned in subdivision (6) of subsection 1;

(6) Three percent of its admitted assets in loans evidenced by notes or other evidences of indebtedness and secured by liens on unencumbered leaseholds having at least twenty-five years of unexpired term and mentioned in subdivision (9) of subsection 1;

(7) One percent of its admitted assets, or five percent of that portion of its admitted assets in excess of two hundred fifty million dollars, whichever is greater, in energy-related investments specified in subdivision (12) of subsection 1.

3. The term "corporation", as used in subdivisions (5) and (7) of subsection 1, shall include private corporations, joint stock associations or business trusts. In applying the earnings tests, provided herein, to any issuing, assuming or guaranteeing corporation, whether or not in legal

existence during the whole of the test period, and if such corporation has during the test period acquired the assets of any other corporation or corporations by purchase, merger, consolidation or otherwise, or has been reorganized pursuant to the bankruptcy law, the earnings available for interest and dividends of such other predecessor or constituent corporation or the corporation so reorganized shall be considered as the earnings of the issuing, assuming or guaranteeing corporation.

4. Nothing contained in this section shall be construed as repealing or affecting the provisions of sections 375.330, 375.340, and 375.355, RSMo.

Approved July 6, 2005

HB 114 [HB 114]

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

Extends the expiration date of the Kansas City transportation sales tax to December 31, 2015

AN ACT to repeal section 92.402, RSMo, and to enact in lieu thereof one new section relating to taxation for public mass transportation systems.

SECTION
A. Enacting clause.
92.402. Tax, how imposed — rate of tax — boundary changes, procedure, effect of.

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

SECTION A. ENACTING CLAUSE. — Section 92.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

92.402. TAX, HOW IMPOSED — RATE OF TAX — BOUNDARY CHANGES, PROCEDURE, EFFECT OF. — 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the provisions of section 92.421. The remainder of the tax in excess of such seven and one-half percent shall expire on December 31, **[**2005**]** **2015**, on which date the authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States

registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

Approved July 12, 2005

HB 116 [SS HB 116]

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 rights of persons who utilize service dogs

AN ACT to amend chapter 209, RSMo, by adding thereto three new sections relating to rights of persons with dogs, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
209.200. Definitions.
209.202. Crime of causing substantial injury to or the death of a service dog, penalty — failure to control an animal that causes substantial injury to or the death of a service dog, penalty — harassment of a service dog, penalty — damages.
209.204. Crime of impersonating a person with a disability for the purpose of receiving certain accommodations, penalty, civil liability.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 209, RSMo, is amended by adding thereto three new sections, to be known as sections 209.200, 209.202, 209.204, to read as follows:

209.200. DEFINITIONS. — 1. As used in sections 209.200 to 209.204, the following terms shall mean:

(1) "Disability", as defined in section 213.010, RSMo;

(2) "Service dog", a dog that is being or has been specially trained to do work or perform tasks which benefit a particular person with a disability. Service dog includes:

(a) "Guide dog", a dog that is being or has been specially trained to assist a particular blind or visually impaired person;

(b) "Hearing dog", a dog that is being or has been specially trained to assist a particular deaf or hearing-impaired person;

(c) "Medical alert or respond dog", a dog that is being or has been trained to alert a person with a disability that a particular medical event is about to occur or to respond to a medical event that has occurred;

(d) "Mobility dog", a dog that is being or has been specially trained to assist a person with a disability caused by physical impairments.

209.202. CRIME OF CAUSING SUBSTANTIAL INJURY TO OR THE DEATH OF A SERVICE DOG, PENALTY — FAILURE TO CONTROL AN ANIMAL THAT CAUSES SUBSTANTIAL INJURY TO OR THE DEATH OF A SERVICE DOG, PENALTY — HARASSMENT OF A SERVICE DOG, PENALTY — DAMAGES. — 1. Any person who knowingly, intentionally, or recklessly

causes substantial physical injury to or the death of a service dog is guilty of a class A misdemeanor. The provisions of this subsection shall not apply to the destruction of a service dog for humane purposes.

2. Any person who knowingly or intentionally fails to exercise sufficient control over an animal such person owns, keeps, harbors, or exercises control over to prevent the animal from causing the substantial physical injury to or death of a service dog, or the subsequent inability to function as a service dog as a result of the animal's attacking, chasing, or harassing the service dog is guilty of a class A misdemeanor.

3. Any person who harasses or chases a dog known to such person to be a service dog is guilty of a class B misdemeanor.

4. Any person who owns, keeps, harbors, or exercises control over an animal and who knowingly or intentionally fails to exercise sufficient control over the animal to prevent such animal from chasing or harassing a service dog while such dog is carrying out the dog's function as a service dog, to the extent that the animal temporarily interferes with the service dog's ability to carry out the dog's function is guilty of a class B misdemeanor.

5. An owner of a service dog or a person with a disability who uses a service dog may file a cause of action to recover civil damages against any person who:

(1) Violates the provisions of subsection 1 or 2 of this section; or

(2) Steals a service dog resulting in the loss of the services of the service dog.

6. Any civil damages awarded under subsection 5 of this section shall be based on the following:

(1) The replacement value of an equally trained service dog, without any differentiation for the age or experience of the service dog;

(2) The cost and expenses incurred by the owner of a service dog or the person with a disability who used the service dog, including:

(a) The cost of temporary replacement services, whether provided by another service dog or by a person;

(b) The reasonable costs incurred in efforts to recover a stolen service dog; and

(c) Court costs and attorney's fees incurred in bringing a civil action under subsection 5 of this section.

7. An owner of a service dog or a person with a disability who uses a service dog may file a cause of action to recover civil damages against a person who:

(1) Violates the provisions of subsections 1 to 4 of this section resulting in injury from which the service dog recovers to an extent that the dog is able to function as a service dog for the person with a disability; or

(2) Steals a service dog and the service dog is recovered resulting in the service dog being able to function as a service dog for the person with a disability.

8. Any civil damages awarded under subsection 7 of this section shall be based on the following:

(1) Veterinary medical expenses;

(2) Retraining expenses;

(3) The cost of temporary replacement services, whether provided by another service dog or by a person;

(4) Reasonable costs incurred in the recovery of the service dog; and

(5) Court costs and attorney's fees incurred in bringing the civil action under subsection 7 of this section.

9. The provisions of this section shall not apply if a person with a disability, an owner, or a person having custody or supervision of a service dog commits criminal or civil trespass.

10. Nothing in this section shall be construed to preclude any other remedies available at law.

209.204. CRIME OF IMPERSONATING A PERSON WITH A DISABILITY FOR THE PURPOSE OF RECEIVING CERTAIN ACCOMMODATIONS, PENALTY, CIVIL LIABILITY. — Any person who knowingly impersonates a person with a disability for the purpose of receiving the accommodations regarding service dogs under the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., is guilty of a class C misdemeanor and shall also be civilly liable for the amount of any actual damages resulting from such impersonation. Any second or subsequent violation of this section is a class B misdemeanor. For purposes of this section, "impersonates a person with a disability" means a representation by word or action as a person with a disability or a representation of a dog by word or action as a service dog.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the rights of disabled persons the enactment of sections 209.200 to 209.204 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 209.200 to 209.204 of this act shall be in full force and effect upon its passage and approval.

Approved July 12, 2005

HB 119 [HCS HB 119]

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

Requires continuation of life insurance benefits for state employees and retirees who are called to military service in times of active armed warfare

AN ACT to amend chapter 105, RSMo, by adding thereto one new section relating to life insurance benefits for government employees during military deployments, with an emergency clause.

SECTION
A. Enacting clause.
105.265. Life insurance benefits, effect of active military duty.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 105, RSMo, is amended by adding thereto one new section, to be known as section 105.265, to read as follows:

105.265. LIFE INSURANCE BENEFITS, EFFECT OF ACTIVE MILITARY DUTY. — All officers and employees of this state, or of any department or agency thereof, all members of state retirement systems, and all other public employees of this state who are entitled to life insurance benefits as a state employee or a member of a state retirement system, and who are or become members of the United States Armed Forces or the national guard and who are called to military service under competent orders from the appropriate military authority in time of active armed warfare shall be entitled to such life insurance benefits for the entire duration of such military deployment, including time periods in excess of twelve months, subject to the terms and conditions of any life insurance policy

that may be in place to provide such coverage. Such persons shall be required to pay the cost of such coverage.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to the continuation of benefits for state employees providing military service in times of active warfare section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2005, or upon its passage and approval, whichever later occurs.

Approved July 13, 2005

HB 127 [HB 127]

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

Limits to one per calendar week the number of attendance fees that fire protection district board members can receive

AN ACT to repeal sections 321.190 and 321.603, RSMo, and to enact in lieu thereof two new sections relating to fire protection district board attendance fees.

SECTION

A. Enacting clause.
321.190. Attendance fees authorized — reimbursement for expenses — secretary and treasurer, additional compensation, how set, limitation.
321.603. Attendance fees permitted, fire district board members (first classification charter counties).

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

SECTION A. ENACTING CLAUSE. — Sections 321.190 and 321.603, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 321.190 and 321.603, to read as follows:

321.190. ATTENDANCE FEES AUTHORIZED — REIMBURSEMENT FOR EXPENSES — SECRETARY AND TREASURER, ADDITIONAL COMPENSATION, HOW SET, LIMITATION. — Each member of the board may receive an attendance fee not to exceed one hundred dollars for attending each regularly called board meeting, or special meeting, but shall not be paid for attending more than two in any calendar month, except that in a county of the first class having a charter form of government, he shall not be paid for attending more than four in any calendar month. **However, no board member shall be paid more than one attendance fee if such member attends more than one board meeting in a calendar week.** In addition, the chairman of the board of directors may receive fifty dollars for attending each regularly or specially called board meeting, but shall not be paid the additional fee for attending more than two meetings in any calendar month. Each member of the board shall be reimbursed for his actual expenditures in the performance of his duties on behalf of the district. The secretary and the treasurer, if members of the board of directors, may each receive such additional compensation for the performance of their respective duties as secretary and treasurer as the board shall deem reasonable and necessary, not to exceed one thousand dollars per year. The circuit court having jurisdiction over the district shall have power to remove directors or any of them for good cause shown upon a petition, notice and hearing.

321.603. ATTENDANCE FEES PERMITTED, FIRE DISTRICT BOARD MEMBERS (FIRST CLASSIFICATION CHARTER COUNTIES). — In addition to the compensation provided pursuant to section 321.190 for fire protection districts located in a county of the first classification with a charter form of government, each member of any such fire protection district board may receive an attendance fee not to exceed one hundred dollars for attending a board meeting conducted pursuant to chapter 610, RSMo, but such board member shall not be paid for attending more than four such meetings in any calendar month. **However, no board member shall be paid more than one attendance fee if such member attends more than one meeting conducted under chapter 610, RSMo, in a calendar week.**

Approved June 22, 2005

HB 155 [HB 155]

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 State Highway E in McDonald County as the "Albert Brumley Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a certain highway.

SECTION
A. Enacting clause.
227.360. Albert Brumley Memorial Highway designated in McDonald County.

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 227.360, to read as follows:

227.360. ALBERT BRUMLEY MEMORIAL HIGHWAY DESIGNATED IN MCDONALD COUNTY. — The portion of Highway E in McDonald County from the Arkansas state line, north to highway 76, shall be designated the "Albert Brumley Memorial Highway". All appropriate signage shall be paid for, erected, and maintained by Albert E. Brumley and Sons, Inc.

Approved June 21, 2005

HB 163 [HCS HB 163, 213 & 216]

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

Removes the application deadlines and revises the residency requirements for the World War II and Korean War Veterans Medallion programs

AN ACT to repeal sections 42.170, 42.175, 42.200, and 42.202, RSMo, and to enact in lieu thereof four new sections relating to veterans' medallion programs, with an emergency clause.

SECTION
A. Enacting clause.
42.170. World War II medallion, medal and certificate, to whom awarded.
42.175. Adjutant general to administer awards — disposition of deceased applicant's awards.
42.200. Program established, criteria — veteran defined.
42.202. Adjutant general to administer program, rulemaking authority — application procedure — disallowance, procedure.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 42.170, 42.175, 42.200, and 42.202, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 42.170, 42.175, 42.200, and 42.202, to read as follows:

42.170. WORLD WAR II MEDALLION, MEDAL AND CERTIFICATE, TO WHOM AWARDED. — 1. Every veteran who honorably served on active duty in the United States military service at any time beginning December 7, 1941, and ending December 31, 1946, shall be entitled to receive a medallion, medal and a certificate of appreciation pursuant to sections 42.170 to 42.185, provided that:

(1) Such veteran is a legal resident of this state **[**on August 28, 2000,**]** or was a legal resident of this state at the time **he or she entered or was discharged from military service or at the time** of his or her death; and

(2) Such veteran was honorably separated or discharged from military service or is still in active service in an honorable status, or was in active service in an honorable status at the time of his or her death.

2. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of sections 42.170 to 42.185, "veteran" means any person defined as a veteran by the United States Department of Veterans' Affairs or its successor agency.

42.175. ADJUTANT GENERAL TO ADMINISTER AWARDS — DISPOSITION OF DECEASED APPLICANT'S AWARDS. — 1. Except as otherwise provided in sections 42.170 to 42.185, the adjutant general of the state of Missouri shall administer sections 42.170 to 42.185, and may adopt all rules and regulations necessary to administer the provisions of sections 42.170 to 42.185. No rule or portion of a rule promulgated pursuant to sections 42.170 to 42.185 shall become effective unless promulgated pursuant to chapter 536, RSMo.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185 and distribute the medallions, medals and the certificates as provided in sections 42.170 to 42.185. Applications for the medallion, medal and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2001, **[**and before July 1, 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. **The medallion, medal, and certificates shall be awarded until the supply of medallions, medals, and certificates is exhausted. The adjutant general shall notify the general assembly when such supply totals less than one hundred.**

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 **he or she entered or was discharged from military service or 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. **The medallion, medal, and certificates shall be awarded until the supply of medallions, medals, and certificates is exhausted. The adjutant general shall notify the general assembly when such supply totals less than one hundred.**

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.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide funding for certain veterans' programs, 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 22, 2005

HB 174 [HCS HB 174]

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

Prohibits the issuance and allows for the revocation of a real estate license of a person convicted of certain felonies and defines exclusive brokerage agreements

AN ACT to repeal sections 339.100, 339.710, 339.720, and 339.780, RSMo, and to enact in lieu thereof four new sections relating to real estate agents and brokers.

SECTION

A. Enacting clause.
339.100. Investigation of certain practices, procedure — subpoenas — formal complaints — revocation or suspension of licenses — digest may be published — revocation of licenses for certain offenses.
339.710. Definitions.

339.720. Licensee's duties and obligations in writing — licensee as transaction broker, exceptions.
339.780. Brokerage services, written agreements for, parties to, authorizations by designated broker — written agreements, limited agency, single agent, dual agent or subagent.

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

SECTION A. ENACTING CLAUSE. — Sections 339.100, 339.710, 339.720, and 339.780, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 339.100, 339.710, 339.720, and 339.780, to read as follows:

339.100. INVESTIGATION OF CERTAIN PRACTICES, PROCEDURE — SUBPOENAS — FORMAL COMPLAINTS — REVOCATION OR SUSPENSION OF LICENSES — DIGEST MAY BE PUBLISHED — REVOCATION OF LICENSES FOR CERTAIN OFFENSES. — 1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any real estate-related activity of a licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability of a violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to timely deliver a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from

more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express written consent of the broker with whom associated;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;

(13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

(17) Failure to timely inform seller of all written offers unless otherwise instructed in writing by the seller;

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who is not

registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860;

(24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under 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; 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 a child in the first degree; abandonment of a child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; using a child 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.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the commission. Notice of such appeal must be received by the commission within ninety days of notice of revocation. Failure of a person whose license was revoked to notify the commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commissioner.

339.710. DEFINITIONS. — For purposes of **sections 339.010 to 339.180, RSMo, and** sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

(a) Environmental hazards affecting the property;

(b) Physical condition of the property which adversely affects the value of the property;

(c) Material defects in the property;

(d) Material defects in the title to the property;

(e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

(8) "Commission", the Missouri real estate commission;

(9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

(10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with the licensee;

(11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

(12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker;

(13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

(14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

(15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

(16) **"Exclusive brokerage agreement", means a written brokerage agreement which provides that the broker has the sole right, through the broker or through one or more affiliated licensees, to act as the exclusive limited agent, representative, or transaction broker of the client or customer that meets the requirements of section 339.780;**

(17) "Licensee", a real estate broker or salesperson as defined in section 339.010;

[(17)**] (18)** "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

[(18)**] (19)** "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

[(19)**] (20)** "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

[(20)**] (21)** "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

[(21)**] (22)** "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated

licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

[(22)**] (23)** "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.720. LICENSEE'S DUTIES AND OBLIGATIONS IN WRITING — LICENSEE AS TRANSACTION BROKER, EXCEPTIONS. — 1. A licensee's general duties and obligations arising from the limited agency relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the activities enumerated in section 339.010, a licensee may act as an agent in any transaction in accordance with a written agreement as described in section 339.780.

2. A licensee shall be considered a transaction broker unless:

(1) The designated broker enters into a written seller's agent or landlord's agent agreement with the party or parties to be represented pursuant to subsection 2 of section 339.780;

(2) The designated broker enters into a subagency agreement with another designated broker pursuant to subsection 5 of section 339.780;

(3) The designated broker establishes a buyer's or tenant's agency relationship pursuant to subsection 3 of section 339.780;

(4) The designated broker enters into a written agency agreement pursuant to subsection **[**7**] 8** of section 339.780;

(5) The designated broker and the affiliated licensees are performing ministerial acts;

(6) The designated broker enters into a written dual agency agreement with the parties pursuant to subsection 4 of section 339.780;

(7) The designated broker is acting in a manner described in paragraph (c) of subdivision **[**(22)**] (23)** of section 339.710 without proper notice of assumption of transaction broker status; or

(8) The licensee is making a listing presentation, which may include pricing and marketing advice about a potential future transaction, to a customer in anticipation of entering into a signed agency brokerage service agreement as a direct result of the presentation.

3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation to a designated broker unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection 3 of section 339.780.

4. A licensee may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a transaction broker or a seller's agent working with that seller in buying another property as a buyer's agent, as a subagent or as a transaction broker if the licensee complies with sections 339.710 to 339.860 in establishing the relationships for each transaction.

339.780. BROKERAGE SERVICES, WRITTEN AGREEMENTS FOR, PARTIES TO, AUTHORIZATIONS BY DESIGNATED BROKER — WRITTEN AGREEMENTS, LIMITED AGENCY, SINGLE AGENT, DUAL AGENT OR SUBAGENT. — 1. All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

3. Before or while engaging in any acts enumerated in section 339.010, except ministerial acts defined in section 339.710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339.740 and the terms of compensation.

4. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a dual agent shall enter into a written agreement with the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The agreement shall include a licensee's duties and responsibilities specified in section 339.750 and the terms of compensation.

5. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a subagent shall enter into a written agreement with the designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client. If a designated broker has made an appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such appointment may enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.

6. A designated broker who intends to act as a transaction broker and who expects to receive compensation from the party he or she assists shall enter into a written transaction brokerage agreement with such party or parties contracting for the broker's service. The transaction brokerage agreement shall include a licensee's duties and responsibilities specified in section 339.755 and the terms of compensation.

7. **All exclusive brokerage agreements shall specify that the broker, through the broker or through one or more affiliated licensees, shall provide, at a minimum, the following services:**

(1) Accepting delivery of and presenting to the client or customer offers and counteroffers to buy, sell, or lease the client's or customer's property or the property the client or customer seeks to purchase or lease;

(2) Assisting the client or customer in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and the counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and

(3) Answering the client's or customer's questions relating to the offers, counteroffers, notices, and contingencies.

8. Nothing contained in this section shall prohibit the public from entering into written contracts with any broker which contain duties, obligations, or responsibilities which are in addition to those specified in this section.

Approved July 12, 2005

HB 186 [SS SCS HCS HB 186]

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

Authorizes various local taxes

AN ACT to repeal sections 67.459, 67.1003, 67.1062, 67.1067, 67.1069, 67.1070, 67.1775, 67.1922, 67.1934, 67.1956, 67.1959, 67.1968, 67.1979, 94.070, 94.270, 94.660, 94.700, 100.050, 100.059, 135.010, 137.073, 137.100, 137.106, 144.030, 144.044, 144.518, 184.352, 184.353, 184.357, 210.860, 210.861, 313.800, and 313.820, RSMo, and to enact in lieu thereof forty new sections relating to local taxes, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
67.055. Moneys collected for additional costs and expenses, review by county budget officer.
67.459. Apportionment of improvement costs — governing body to establish classifications.
67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.
67.1062. Definitions.
67.1067. Agencies applying for funds, information required.
67.1069. Requirements for agencies to be eligible for funds.
67.1070. Eligible agencies.
67.1159. Lien for unpaid taxes — release of lien, when — fee for recording of lien — notification of sale of property, when — civil action authorized, when.
67.1305. Retail sales tax may be imposed in lieu of certain local economic development sales tax — ballot language — collection and distribution of moneys — trust fund and board to be established.
67.1775. Authorizes local sales tax in all counties and St. Louis City to provide services for children — establishes fund.
67.1922. Water quality, infrastructure and tourism, sales taxes authorized for certain counties — ballot language.
67.1934. Repeal of tax, submitted to voters, ballot language.
67.1956. Board of directors, members, terms, duties.
67.1959. Sales tax imposed, when — submitted to voters, ballot language.
67.1968. Expenditure of sales tax revenue, conditions.
67.1979. Removal of board members.
82.850. Retail sales of meals or drink, tax on gross receipts — ballot language — trust fund established (Cities of Independence and Joplin).
94.070. Maximum levy for special purposes — alternate rate (Excelsior Springs)
94.270. Power to license, tax and regulate certain businesses and occupations — prohibition on local license fees in excess of certain amounts in certain cities (Edmundson, Woodson Terrace) — license fee on hotels or motels (St Peters) — increase or decrease of tax, when.
94.660. Transportation sales tax, ballot — effective, when — approval required in city and county — collection, fund created — use of funds — abolition of tax, procedure — reduction of rate.
94.700. Definitions.
94.837. Transient guest tax (Canton, LaGrange, Edina).
94.838. Transient guest tax and tax on retail sales of food (Lamar Heights).
100.050. Approval of plan by governing body of municipality — information required — additional information required, when — payments in lieu of taxes, applied how.
100.059. Notice of proposed project for industrial development, when, contents — limitation on indebtedness, inclusions — applicability, limitation.
135.010. Definitions.
137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
137.100. Certain property exempt from taxes.
137.106. Homestead preservation — definitions — homestead exemption credit received, when, application process — assessor's duties — department of revenue duties — exemption limit set, when, how applied — rulemaking authority — sunset provision.
144.030. Exemptions from state and local sales and use taxes.
144.044. New manufactured homes and modular units — partial sales tax exemption.
144.518. Exemption for machines or parts for machines used in a commercial, coin-operated amusement and vending business.
184.352. Definitions.

184.353. Botanical garden — transport museum — Missouri history museum — symphony orchestra and recreational and amateur sports subdistricts, formation — election, ballot forms, tax rate — admission fees — metropolitan zoological park and museum district, election to provide for an African-American history museum, ballot forms, tax rate.
184.357. Zoological park — art museum and botanical garden — increase in tax rate, procedure, ballot form.
210.860. Tax levy, amount, purposes — ballot — deposit of funds in special community children's services fund.
210.861. Board of directors, term, expenses, organization — powers — funds, expenditure, purpose, restrictions.
313.800. Definitions — additional games of skill, commission approval, procedures.
313.820. Admission fee, amount, division of — licensees subject to all other taxes, collection of nongaming taxes by department of revenue — cap on amount to be collected, exceptions.
1. Recreation sales tax — ballot language — rate of tax — revenue director's duties — refunds authorized — expiration date (Madison County).
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 67.459, 67.1003, 67.1062, 67.1067, 67.1069, 67.1070, 67.1775, 67.1922, 67.1934, 67.1956, 67.1959, 67.1968, 67.1979, 94.070, 94.270, 94.660, 94.700, 100.050, 100.059, 135.010, 137.073, 137.100, 137.106, 144.030, 144.044, 144.518, 184.352, 184.353, 184.357, 210.860, 210.861, 313.800, and 313.820, RSMo, are repealed and forty new sections enacted in lieu thereof to be known as sections 67.055, 67.459, 67.1003, 67.1062, 67.1067, 67.1069, 67.1070, 67.1159, 67.1305, 67.1775, 67.1922, 67.1934, 67.1956, 67.1959, 67.1968, 67.1979, 82.850, 94.070, 94.270, 94.660, 94.700, 94.837, 94.838, 100.050, 100.059, 135.010, 137.073, 137.100, 137.106, 144.030, 144.044, 144.518, 184.352, 184.353, 184.357, 210.860, 210.861, 313.800, 313.820, and 1, to read as follows:

67.055. MONEYS COLLECTED FOR ADDITIONAL COSTS AND EXPENSES, REVIEW BY COUNTY BUDGET OFFICER. — Any moneys received or collected to fund additional costs and expenses incurred by any county office, shall be reviewed by the county budget officer when he or she is formulating the annual budget and shall be used solely for the purposes provided for in statute for each fund.

67.459. APPORTIONMENT OF IMPROVEMENT COSTS — GOVERNING BODY TO ESTABLISH CLASSIFICATIONS. — The portion of the cost of any improvement to be assessed against the real property in a neighborhood improvement district shall be apportioned against such property in accordance with the benefits accruing thereto by reasons of such improvement. The cost may be assessed equally per front foot or per square foot against property within the district or by any other reasonable assessment plan determined by the governing body of the city or county which results in imposing substantially equal burdens or share of the cost upon property similarly benefited **and which may include, in the case of condominium or equitable owner association ownership, a determination that all units within the condominium or equitable owner association are equally benefited**. The governing body of the city or county may from time to time determine and establish by ordinance or resolution reasonable general classifications and formulae for the methods of assessing the benefits.

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county or **(1)** a county of the third classification with a population of **[**(1)**]** more than seven thousand but less than seven thousand four hundred inhabitants; (2) or a third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a

population of more than thirty thousand; (3) or a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand**; (4)** or any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand**; (5) or any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants** may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be 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 or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room 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 the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] Yes [ ] No

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1062. DEFINITIONS. — As used in sections 67.1062 to 67.1071, unless the context clearly requires otherwise, the following words and phrases mean:

(1) "Agency", an entity which provides **[**housing-related assistance**] any service related** to homeless persons or the repair or replacement of housing structures which are in violation of the county housing code, and shall include not-for-profit housing partnerships as defined in 24 CFR Part 92 or successor regulations;

(2) "City", any city not within a county;

(3) "County", a county of the first class having a charter form of government;

(4) "Designated authority", the board, commission, agency, or other body designated under the provisions of section 67.1065 as the authority to administer the allocation and distribution of funds to agencies;

(5) "Homeless", an involuntary state characterized by a lack of habitable housing or shelter.

67.1067. AGENCIES APPLYING FOR FUNDS, INFORMATION REQUIRED. — 1. Any agency providing **[**assistance**] services related** to homeless persons may apply to the designated authority for funds to be used to provide **[**housing**] such services** for the homeless. All applications shall include, but not be limited to, the following:

(1) **[**Evidence that the agency is incorporated or authorized to do business in this state as a nonprofit corporation;

(2)**]** A list of the directors of the **[**corporation**] applicant, if any**, and a list of the trustees of the agency if different;

[(3)**] (2)** The proposed budget of the agency for the following calendar year, or other period for which funding is sought;

[(4)**] (3)** A summary of the services proposed to be offered in the following calendar year, or other period for which funding is sought;

[(5)**] (4)** An estimate of the number of persons to be served during the following calendar year, or other period for which funding is sought; and

[(6)**] (5)** Any other information deemed relevant to the application by the designated authority.

2. After review of an application for funds from an agency that meets the criteria set forth in section 67.1069, the designated authority shall notify the agency in writing whether it is eligible to receive funds and, if the agency is eligible, specify the amount available for that agency from the fund established pursuant to sections 67.1063 and 67.1064.

67.1069. REQUIREMENTS FOR AGENCIES TO BE ELIGIBLE FOR FUNDS. — To qualify for funds allocated and distributed pursuant to section 67.1067, an agency **[**shall meet**] may be any entity which provides services related to homeless persons or which meets** all of the following requirements:

(1) **[**Be incorporated or authorized to do business in the state as a nonprofit corporation;

(2)**]** Have trustees who represent the racial, ethnic and socioeconomic diversity of the community to be served, at least one of whom must possess experience in confronting or mitigating the problems of homeless;

[(3)**] (2)** Receive at least twenty-five percent of its funds from sources other than funds distributed pursuant to section 67.1067. These other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal service; and

[(4)**] (3)** Require persons employed by or volunteering services to the agency to maintain the confidentiality of any information that would identify individuals served by the agency.

67.1070. ELIGIBLE AGENCIES. — Funds shall be allocated to:

(1) Agencies offering or proposing to offer the broadest range of housing-related services to persons in the community served, including:

(a) Emergency short-term and long-term shelter for the homeless;

(b) Prevention of residential foreclosures and evictions;

(c) Coordination of existing community services; and

(d) Projects to encourage self-sufficiency of participants and facilitate transition from dependency on subsidized housing;

(2) Other **[**agencies offering or proposing to offer services specifically to homeless persons**]** **entities essential for carrying out the purposes of this section**.

67.1159. LIEN FOR UNPAID TAXES — RELEASE OF LIEN, WHEN — FEE FOR RECORDING OF LIEN — NOTIFICATION OF SALE OF PROPERTY, WHEN — CIVIL ACTION AUTHORIZED, WHEN. — 1. In any case in which any tax, interest or penalty imposed under sections 67.1150 to 67.1158 is not paid when due, the authority or its designated agent may file for record in the real estate records of the recorder's office of the city or the county where the business giving rise to the tax, interest, or penalty is located, or in which the person owing the tax, interest, or penalty resides, a notice of lien specifying the amount of tax, interest, or penalty due and the name of the person liable for the same. From the time of filing any such notice, the amount of the tax specified in such notice shall have the force and effect of a lien against the real and personal property of the business of such person or the facility giving rise to the tax for the amount specified in such notice.

2. A lien created under subsection 1 of this section may be released:

(1) By filing for record in the office of the recorder where the lien was originally filed a release of the lien executed by a duly authorized agent of the authority upon payment of the tax, interest, and penalty due; or

(2) Upon receipt by the authority of sufficient security to secure payment thereof; or

(3) By final judgment holding such lien to have been erroneously imposed.

3. Each recorder shall receive the standard statutory fee for the recording of each notice of lien and for each release of lien filed for record. The authority is authorized to collect an additional penalty from each taxpayer equal to the cost of filing a notice of lien or release with respect to such taxpayer.

4. Any person operating or managing a business or facility who owes any tax, penalty, or interest, or is required to file any report with the authority, shall notify the authority in writing at least ten days prior to any sale of the entire business or facility, or the entire assets or property of the business or facility, or a major part thereof. Such notice shall include the name of the business or facility, the name of the owner of the business or facility, the name of the person collecting the tax at the time of the notice, the name of the purchaser, and the intended date of purchase. A purchaser of such business, facility, assets, or property who takes with notice of any delinquent tax or with notice of noncompliance with this section takes subject to any tax, penalty, or interest owed by the seller.

5. The authority shall have the power to bring a civil action in any court of competent jurisdiction to enjoin the operation of the business or facility of any person or the successor-in-interest to any person operating or managing the same business or facility, which business or facility gave rise to any tax, penalty, or interest which is unpaid or to enjoin the operating or managing of any such business or facility whose owners or successors-in-interest are operating or managing in violation of the provisions of sections 67.1150 to 67.1159. The courts shall expedite the hearing on the merits of any such action and shall not require the authority to post a bond pending such hearing.

67.1305. RETAIL SALES TAX MAY BE IMPOSED IN LIEU OF CERTAIN LOCAL ECONOMIC DEVELOPMENT SALES TAX — BALLOT LANGUAGE — COLLECTION AND DISTRIBUTION OF MONEYS — TRUST FUND AND BOARD TO BE ESTABLISHED. — 1. As used in this section, the term "city" shall mean any incorporated city, town, or village.`

2. In lieu of the sales taxes authorized under sections 67.1300 and 67.1303. The governing body of any city or county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at any citywide, county or state general, primary or special election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The tax authorized in this section shall not be imposed by any city or county that has imposed a tax under section 67.1300 or 67.1303 unless the tax imposed under those sections has expired or been repealed.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city or county) impose a sales tax at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are

opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question, provided that no proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last proposal.

4. All sales taxes collected by the director of revenue under this section on behalf of any county or municipality, 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 "Local Option Economic Development Sales Tax Trust Fund".

5. The moneys in the local option economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and which was collected in each city or county imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city or county and the public.

6. 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 city or county which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate municipal officer in the case of a municipal tax, and all expenditures of funds arising from the local economic development sales tax trust fund shall be in accordance with this section.

7. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities and counties.

8. If any county or municipality abolishes the tax, the city or county 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 city or county, the director of revenue shall remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

9. 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.

10. (1) No revenue generated by the tax authorized in this section shall be used for any retail development project, except for the redevelopment of downtown areas and historic districts. Not more than twenty-five percent of the revenue generated shall be used annually for administrative purposes, including staff and facility costs.

(2) At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

(a) Acquisition of land;

(b) Installation of infrastructure for industrial or business parks;

(c) Improvement of water and wastewater treatment capacity;

(d) Extension of streets;

(e) Public facilities directly related to economic development and job creation; and

(f) Providing matching dollars for state or federal grants relating to such long-term projects;

(3) The remaining revenue generated by the tax authorized in this section may be used for, but shall not be limited to, the following:

(a) Marketing;

(b) Providing grants and loans to companies for job training, equipment acquisition, site development, and infrastructures;

(c) Training programs to prepare workers for advanced technologies and high skill jobs;

(d) Legal and accounting expenses directly associated with the economic development planning and preparation process;

(e) Developing value-added and export opportunities for Missouri agricultural products.

11. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the 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 or county funds.

12. Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The volunteer board shall receive no compensation or operating budget.

(1) The economic development tax board established by a city and shall consist of five members, to be appointed as follows:

(a) One member shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such members shall be appointed in any manner agreed upon by the affected districts;

(b) Three members shall be appointed by the chief elected officer of the city with the consent of the majority of the governing body of the city;

(c) One member shall be appointed by the governing body of the county in which the city is located.

(2) The economic development tax board established by a county shall consist of seven members, to be appointed as follows:

(a) One member shall be appointed by the school districts included within any economic development plan or area funded by the sales tax authorized in this section. Such members shall be appointed in any manner agreed upon by the affected districts;

(b) Four members shall be appointed by the governing body of the county; and

(c) Two members from the cities, towns, or villages within the county appointed in any manner agreed upon by the chief elected officers of the cities or villages.

Of the members initially appointed, three shall be designated to serve for terms of two years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed 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.

13. The board, subject to approval of the governing body of the city or county, shall consider economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, 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 concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area. The governing body of the city or county shall have the final

determination on use and expenditure of any funds received from the tax imposed under this section.

14. The board may consider and recommend using funds received from the tax imposed under this section for plans, projects or area designations outside the boundaries of the city or county imposing the tax if, and only if:

(1) The city or county imposing the tax or the state receives significant economic benefit from the plan, project or area designation; and

(2) The board establishes an agreement with the governing bodies of all cities and counties in which the plan, project or area designation is located detailing the authority and responsibilities of each governing body with regard to the plan, project or area designation.

15. Notwithstanding any other provision of law to the contrary, the economic development sales tax imposed under this section when imposed within a special taxing district, including, but not limited to a tax increment financing district, neighborhood improvement district, or community improvement district, shall be excluded from the calculation of revenues available to such districts, and no revenues from any sales tax imposed under this section shall be used for the purposes of any such district unless recommended by the economic development tax board established under this section and approved by the governing body imposing the tax.

16. The board and the governing body of the city or county imposing the tax shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section and shall make such report available to the public.

17. Not later than the first day of March each year the board shall submit to the joint committee on economic development a report, not exceeding one page in length, which must include the following information for each project using the tax authorized under this section:

(1) A statement of its primary economic development goals;

(2) A statement of the total economic development sales tax revenues received during the immediately preceding calendar year;

(3) A statement of total expenditures during the preceding calendar year in each of the following categories:

(a) Infrastructure improvements;

(b) Land and or buildings;

(c) Machinery and equipment;

(d) Job training investments;

(e) Direct business incentives;

(f) Marketing;

(g) Administration and legal expenses; and

(h) Other expenditures.

18. The governing body of any city or county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city or county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city or county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the

city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

19. Whenever the governing body of any city or county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city or county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

20. If any provision of this section or section 67.1303 or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section or section 67.1303 which can be given effect without the invalid provision or application, and to this end the provisions of this section and section 67.1303 are declared severable.

67.1775. AUTHORIZES LOCAL SALES TAX IN ALL COUNTIES AND ST. LOUIS CITY TO PROVIDE SERVICES FOR CHILDREN — ESTABLISHES FUND. — 1. The governing body of a city not within a county, or any county of this state may, after voter approval **[**pursuant to**]** **under** this section, levy a sales tax not to exceed one-quarter of a cent in the county **or city** for the purpose of providing services described in section 210.861, RSMo, including counseling, family support, and temporary residential services to persons nineteen years of age or less. The question shall be submitted to the qualified voters of the county **or city** at a county **or city** or state general, primary or special election upon the motion of the governing body of the county **or city** or upon the petition of eight percent of the qualified voters of the county **or city** determined on the basis of the number of votes cast for governor in such county at the last gubernatorial election held prior to the filing of the petition. The election officials of the county **or city** shall give legal notice as provided in chapter 115, RSMo. The question shall be submitted in substantially the following form:

Shall ..... County **or city, solely for the purpose of establishing a community children's services fund for the purpose of providing services to protect the well-being and safety of children and youth nineteen years of age or less and to strengthen families,** be authorized to levy a sales tax of ..... (not to exceed one-quarter of a cent) in the county **[**for the purpose of establishing a community children's services fund for the purpose of providing services to protect the well-being and safety of children and youth nineteen years of age or less and to strengthen families**]**?

[ ] YES [ ] NO

[If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall be levied and collected as otherwise provided by law. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not be levied unless and until the question is again submitted to the qualified voters of the county and a majority of such voters are in favor of such a tax, and not otherwise.**]** **If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second calendar quarter after the director receives notification of the local sales tax. If a question receives less than the required majority, then the governing authority of the city or county shall have no power to impose the sales tax unless and until the governing authority of the city or county has submitted another question to authorize the imposition of the sales tax authorized by this section and**

such question is approved by the required majority of the qualified voters voting thereon. However, in no event shall a question under this section be submitted to the voters sooner than twelve months from the date of the last question under this section.

2. **After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed under this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue.**

3. All sales taxes collected by the director of revenue under this section on behalf of any city or county, less one percent for the 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 with the state treasurer in a special fund, which is hereby created, to be known as the "Community Children's Services Fund". The moneys in the city or county community children's services 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 fund which was collected in each city or county imposing a sales tax under this section, and the records shall be open to the inspection of officers of each city or county and the general public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the fund during the preceding month by distributing to the city or county treasurer, or such other officer as may be designated by a city or county ordinance or order, of each city or county imposing the tax authorized by this section, the sum, as certified by the director of revenue, due the city or county.

4. The director of revenue may authorize the state treasurer to make refunds from the amounts in the fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. Each city or county shall notify the director of revenue at least ninety days prior to the effective date of the expiration of the sales tax authorized by this section and the director of revenue may order retention in the 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 such tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the date of expiration of the tax authorized by this section in such city or county, the director of revenue shall remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. All revenues generated by the tax prescribed in this section shall be deposited in the county treasury **or, in a city not within a county, to the board established by law to administer such fund** to the credit of a special "Community Children's Services Fund" **to accomplish the purposes set out herein and in section 210.861, RSMo, and shall be used for no other purpose**. Such fund shall be administered by a board of directors, established **[**pursuant to**]** **under** section 210.861, RSMo.

67.1922. WATER QUALITY, INFRASTRUCTURE AND TOURISM, SALES TAXES AUTHORIZED FOR CERTAIN COUNTIES — BALLOT LANGUAGE. — 1. The governing body of any county containing any part of a Corps of Engineers lake with a shoreline of at least seven

hundred miles and not exceeding a shoreline of nine hundred miles or the governing body of any county which borders on or which contains part of a lake with not less than one hundred miles of shoreline may impose by order **[**a**] one or more** sales **[**tax**] taxes**, not to exceed one and one-half percent **in the aggregate**, on all retail sales made in such county which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of **[**promoting**] affecting any combination of** water quality, infrastructure **[**and**] or** tourism **[**through programs designed to affect the economic development of**] in** the county. The **[**tax**] taxes** authorized by this section shall be in addition to any and all other sales taxes allowed by law; except that no order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a municipal or state primary, general or special election, a proposal to authorize the governing body of the county to impose **[**a**] such** tax.

2. **[**The**] Each** 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 of ..... (insert percent) for the purpose of **[**creating and implementing water quality, infrastructure and tourism programs affecting economic development in the county**] affecting .....? (water quality, infrastructure and tourism) (water quality and infrastructure) (water quality and tourism) (infrastructure and tourism) (water quality) (infrastructure) (tourism) (insert one)** as provided by law?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the governing body of the county shall have no power to impose the sales tax authorized pursuant to this section unless and until the governing body shall again have submitted another proposal to authorize the governing body to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the county voting on such proposal.

67.1934. REPEAL OF TAX, SUBMITTED TO VOTERS, BALLOT LANGUAGE. — The governing body of the county, when presented with a petition, signed by at least twenty percent of the registered voters in the county that voted in the last gubernatorial election, calling for an election to repeal the tax shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

Shall ..... County, Missouri, repeal the ..... percent economic development sales tax for **[**promoting water quality, infrastructure and tourism**] affecting .....? (water quality, infrastructure and tourism programs) (water quality and infrastructure programs) (water quality and tourism programs) (infrastructure and tourism programs) (water quality programs) (infrastructure programs) (tourism programs) (insert one)** now in effect in the county?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the county's indebtedness incurred pursuant to sections 67.1922 to 67.1940, whichever occurs later.

67.1956. BOARD OF DIRECTORS, MEMBERS, TERMS, DUTIES. — 1. In each tourism community enhancement district established pursuant to section 67.1953, there shall be a board of directors, to **[**initially**]** consist of **[**not less than five**] seven** members. **[**One member**] Three members** shall be selected by the governing body of the city, town or village, **[**with the largest population, at the inception of the district, within the district. One member**] located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. Two members** shall be selected by the governing body of the city, town or village, **[**with the second largest population, at the inception of the district, within the district**] located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district**, if such a city, town or village exists in the district. If no such city, town or village exists in the district then **[**one member**] two additional members** shall be selected by **[**the board of directors of the district from the unincorporated area of such district. Two members**] the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. One member** shall be selected by the **[**largest convention and visitor's bureau or similar organization, at the inception of the district, within**] governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of** the district. One member shall be selected by the **[**destination marketing organization of the second largest county, city, town or village, at the inception of the district, within**] governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of** the district.

2. Of the members first selected, the **[**two**] three** members from the city, town or village **located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district** shall be selected for a term of three years, the two members from the **[**convention and visitor's bureau**] the city, town, or village located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district** shall be selected for a term of two years, and the **[**member from the destination marketing organization of the second largest city**] the remaining members** shall be selected for a term of one year. Thereafter, each member selected shall serve a three-year term. Every member shall be **either** a resident of the district**, own real property within the district, be employed by a business within the district, or operate a business within the district**. All members shall serve without compensation. **[**Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected, with the new person serving the remainder of the term of the person who vacated the position.**]** The board shall elect its own treasurer, secretary and such other officers as it deems necessary and expedient, and it may make such rules, regulations, and bylaws to carry out its duties pursuant to sections 67.1950 to 67.1977.

[2. Any time a district is expanded by either an unincorporated or incorporated area, the board shall be expanded by two members. One member shall be appointed by the governing body of the incorporated area added to the district or by the board of directors of the district for the unincorporated area added to the district and one member shall be appointed by the governing body of the city, town or village with the largest population at the inception of the district for the first expansion and every odd-numbered expansion thereafter, or by the convention and visitor's bureau or similar entity of the largest city, town or village, at the inception of the district, for the second expansion and every even-numbered expansion thereafter.**]**

3. Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected within sixty days of the vacancy occurring, with the new person serving the remainder of the term of the person who vacated the position. In the event that a person is not so selected within sixty days of the vacancy occurring, the

remaining members of the board shall select a person to serve the remainder of the term of the person who vacated the position.

4. If a tourism community enhancement district is already in existence on August 28, 2005, the one additional board member shall be appointed by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district for a one year term and the other additional board member shall be appointed by the governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district for a two year term, thereafter all board members shall serve three year terms. The existing board members shall serve out their terms with the provisions of this section controlling the appointment of successor board members, with first and second board existing positions to expire to be appointed by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district, the third and fourth existing board positions to expire to be appointed by the governing body of the city, town, or village located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district and the fifth existing board position to expire to be appointed by the governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district.

[3.**]** **5.** The board, on behalf of the district, may:

(1) Cooperate with public agencies and with any industry or business located within the district in the implementation of any project;

(2) Enter into any agreement with any public agency, person, firm, or corporation to implement any of the provisions of sections 67.1950 to 67.1977;

(3) Contract and be contracted with, and sue and be sued; and

(4) Accept gifts, grants, loans, or contributions from the United States of America, the state, any political subdivision, foundation, other public or private agency, individual, partnership or corporation on behalf of the tourism enhancement district community.

67.1959. SALES TAX IMPOSED, WHEN — SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The board, by a majority vote, may submit to the residents of such district a tax of not more than one percent on all retail sales, except **sales of food as defined in section 144.014,** sales of new or used motor vehicles, trailers, boats, or other outboard motors and sales of funeral services, made within the district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon the written request of the board to the election authority of the county in which a majority of the area of the district is situated, such election authority shall submit a proposition to the residents of such district at a municipal or statewide primary or general election, or at a special election called for that purpose. Such election authority shall give legal notice as provided in chapter 115, RSMo.

2. Such proposition shall be submitted to the voters of the district in substantially the following form at such election:

Shall the Tourism Community Enhancement District impose a sales tax of ..... (insert amount) for the purpose of promoting tourism **[**and community enhancements in the (name of county, city, town or village that includes a majority of the area within the proposed district) ..... Tourism Community Enhancement District**] in the district**?

[ ] Yes **[ ]** No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the proposed district voting thereon are in favor of the proposal, then the order shall become effective on the first day

of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the board shall have no power to impose the sales tax authorized pursuant to this section unless and until the board shall again have submitted another proposal to authorize the board to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district.

67.1968. EXPENDITURE OF SALES TAX REVENUE, CONDITIONS. — Expenditures may be made from the tourism community enhancement district sales tax trust fund or moneys collected pursuant to section 67.1965 for any purposes authorized pursuant to subsection 1 of section 67.1959, provided as follows:

(1) **[**Ten percent of the revenues shall be used for education purposes. The board shall transmit those revenues to the school district or districts within the district, on a basis of revenue collected within each school district. These revenues shall not be used in any manner with respect to the calculation of the state school aid pursuant to chapter 163, RSMo;

(2) Ten percent of the revenues collected from the tax authorized by this section shall be used by the board for senior citizen or youth or community enhancement purposes within the district. The board shall distribute these revenues to the cities, towns and villages based upon the amount of sales tax collected within each city, town or village and the portion of the revenues not attributable to any city, town or village shall be distributed at the discretion of the board;

(3) Seventy-five percent of the revenues shall be used by the board for marketing, advertising and promotion of tourism. The district shall enter into an agreement with a not-for-profit organization providing local support services, including but not limited to visitor's centers, to conduct and administer public relations, sales and marketing of tourism on behalf of the district to enhance the economic health of the district. Such marketing, advertising and promotional activities shall be developed into a comprehensive marketing plan, for the benefit of the district;

(4) Two percent of the revenues shall be distributed among each destination marketing organization located within each school district or districts within the district based upon the amount of sales tax collected within each school district;

(5) Two percent of the revenues shall be transmitted to the not-for-profit organization conducting and administering the marketing plan within the district for purposes of administering the marketing plan**] One percent of the revenues collected from the tax authorized by this section may be held in reserve and used by the board for the reimbursement of or for lawful and reasonable administrative expenses involved with the board's fulfillment of their statutory duties including, but not limited to, insurance, election costs, legal, accounting, and audit fees, administrative services and travel. If such reasonable expenses, plus a reasonable reserve, exceeds the revenues provided in this subsection, then the additional revenues necessary for such reasonable expenses shall come from the revenues provided in subsection 2 of this section. If such reasonable expenses, plus a reasonable reserve, do not exceed the revenues provided in this subsection, the board may use the excess funds in the same manner as the revenues provided in subsection 2 of this section.**

(2) Ninety-eight percent of the revenues collected from the tax authorized by this section shall be used by the board for marketing, advertising, and promotion of tourism, the administration thereof, and a reasonable reserve. The district shall enter into an agreement with an organization or organizations to conduct and administer functions such as public relations, sales and marketing of tourism on behalf of the district to enhance the economic health of the district. Such marketing, advertising, and promotional activities shall be developed into a comprehensive marketing plan, for the benefit of the district. Up to two percent of the revenues in this subsection, at the sole discretion of the board, may be distributed among each destination marketing organization, located within

each school district, for marketing based upon a marketing plan which shall be submitted each year by the destination marketing organizations located within the district, if such marketing plan is approved by the board;

(3) One percent of the revenues collected from the tax authorized by this section may be retained by the Missouri department of revenue or any other entity responsible for the collection of the sales tax.

67.1979. REMOVAL OF BOARD MEMBERS. — Members of the board of directors may be removed by **[**two-thirds**] a majority** vote of the appointing governing body.

82.850. RETAIL SALES OF MEALS OR DRINK, TAX ON GROSS RECEIPTS — BALLOT LANGUAGE — TRUST FUND ESTABLISHED (CITIES OF INDEPENDENCE AND JOPLIN). — 1. As used in this section, the following terms mean:

(1) "Food", all products commonly used for meals or drinks, including alcoholic beverages;

(2) "Food establishment", any café, cafeteria, lunchroom, or restaurant which sells meals or drinks to the public;

(3) "Gross receipts", the gross receipts from sales of meals or drinks prepared on the premises and delivered to the purchaser (excluding sales tax);

(4) "Museum", any museum dedicated to the preservation of the history of the westward expansion movement of the United States by covered wagon, train, water, or similar means of transportation, and which is or was owned by this state on the effective date of the tax authorized in this section, and which is operated by the city or any other person;

(5) "Person", any individual, corporation, partnership, or other entity;

(6) "Tourism-related activities", those activities commonly associated with the development, promotion, and operation of tourism and related facilities for the city, including historic preservation.

2. The city council of any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants and any home rule city with more than forty-five thousand five hundred but fewer than forty-five thousand nine hundred inhabitants and partially located in any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants may impose a tax on the gross receipts derived from the amount of sales or charges for all meals and drinks furnished by every person operating a food establishment situated in the city or a portion thereof. The tax authorized in this section may be imposed in increments of one-eighth of one percent, up to a maximum of two percent of such gross receipts. One-half of any such tax imposed under this section shall be used solely for the development, promotion, and operation of a museum. Such tax shall be in addition to all other sales taxes imposed on such food establishments, and shall be stated separately from all other charges and taxes. Such tax shall not become effective unless the city council, by order or ordinance, submits to the voters of the city a proposal to authorize the city council to impose a tax under this section on any day available for such city to hold municipal elections or at a special election called for the purpose.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a tax on the gross receipts derived from the sales of meals or drinks at any food establishment situated in ..... (name of city) at a rate of ..... (insert rate of percent) percent for the sole purpose of providing funds for the development, promotion, and operation of museum and tourism-related activities and facilities, with ..... (insert rate of percent) percent of such tax dedicated to museum purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following notification to the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

4. The tax imposed under this section shall be known as the "Museum and Tourism-Related Activities Tax". Each city imposing a tax under this section shall establish separate trust funds to be known as the "Museum Trust Fund" and the "Tourism-Related Trust Fund". The city treasurer shall deposit the revenue derived from the tax imposed under this section for museum purposes in the museum trust fund, and shall deposit the revenue derived for tourism-related purposes in the tourism-related trust fund. The proceeds of such tax shall be appropriated by the city council exclusively for the development, promotion, and operation of museum and tourism-related activities and facilities in the city.

5. All applicable provisions in chapter 144, RSMo, relating to state sales tax, and in section 32.057, RSMo, relating to confidentiality, shall apply to the collection of any tax imposed under this section.

6. All exemptions for government agencies, organizations, individuals, and on the sale of certain tangible personal property and taxable services granted under sections 144.010 to 144.525, RSMo, shall be applicable to the imposition and collection of any tax imposed under this section.

7. The same sales tax permits, exemption certificates, and retail certificates required for the administration and collection of state sales tax in chapter 144, RSMo, shall be deemed adequate for the administration and collection of any tax imposed under this section, and no additional permit, exemption certificate, or retail certificate shall be required, provided that the director of the department of revenue may prescribe a form of exemption certificate for an exemption from any tax imposed under this section.

8. Any individual, firm, or corporation subject to any tax imposed under this section shall collect the tax from the patrons of the food establishment, and each such patron of the food establishment shall pay the amount of the tax due to the individual, firm, or corporation required to collect the tax. The city shall permit the individual required to remit the tax to deduct and retain an amount equal to two percent of the taxes collected. The city council may either require the license collector of the city to collect the tax, or may enter into an agreement with the director of the department of revenue to have the director collect the tax on behalf of the city. In the event such an agreement is entered into, the director shall perform all functions incident to the collection, enforcement, and operation of such tax, and shall collect the tax on behalf of the city and shall transfer the funds collected to the city license collector, except for an amount not less than one percent nor more than three percent, which shall be retained by the director for the costs of collecting the tax. If the director is to collect such tax, the tax shall be collected and reported upon such forms and under such administrative rules and regulations as the director may prescribe. All refunds and penalties as provided in sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section.

9. It is unlawful for any person to advertise or hold out or state to the public or to any food establishment patron, directly or indirectly, that the tax or any part thereof imposed by this section, and required to be collected by that person, will be absorbed by that person, or anyone on behalf of that person, or that it will not be separately stated and added to the price of the food establishment bill, or if added, that it or any part thereof will be refunded.

94.070. MAXIMUM LEVY FOR SPECIAL PURPOSES — ALTERNATE RATE (EXCELSIOR SPRINGS) — 1. In addition to the levy aforesaid for general municipal purposes, all cities of the third class are hereby authorized to levy annually not to exceed the following rates of taxation on all property subject to its taxing power for the following special purposes:

(1) For library purposes in the manner and at the rate authorized under the provisions of sections 182.140 to 182.301, RSMo;

(2) For hospitals, public health, and museum purposes twenty cents on the one hundred dollars assessed valuation; and

(3) For recreational grounds in the manner and at the rate authorized under the provisions of sections 90.500 to 90.570, RSMo.

2. In lieu of the twenty cents levied on the one hundred dollars assessed valuation for hospitals, public health, and museum purposes in subdivision (2) of subsection 1 of this section, any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants and located in more than one county may levy a tax at the rate of thirty cents on the one hundred dollars assessed valuation for hospital, public health, and museum purposes.

94.270. POWER TO LICENSE, TAX AND REGULATE CERTAIN BUSINESSES AND OCCUPATIONS — PROHIBITION ON LOCAL LICENSE FEES IN EXCESS OF CERTAIN AMOUNTS IN CERTAIN CITIES (EDMUNDSON, WOODSON TERRACE) — LICENSE FEE ON HOTELS OR MOTELS (ST PETERS) — INCREASE OR DECREASE OF TAX, WHEN. — 1. The mayor and board of aldermen shall have power and authority to regulate and to license and to levy and collect a license tax on auctioneers, druggists, hawkers, peddlers, banks, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, hotels, public boardinghouses, billiard and pool tables and other tables, bowling alleys, lumber dealers, real estate agents, loan companies, loan agents, public buildings, public halls, opera houses, concerts, photographers, bill posters, artists, agents, porters, public lecturers, public meetings, circuses and shows, for parades and exhibitions, moving picture shows, horse or cattle dealers, patent right dealers, stockyards, inspectors, gaugers, mercantile agents, gas companies, insurance companies, insurance agents, express companies, and express agents, telegraph companies, light, power and water companies, telephone companies, manufacturing and other corporations or institutions, automobile agencies, and dealers, public garages, automobile repair shops or both combined, dealers in automobile accessories, gasoline filling stations, soft drink stands, ice cream stands, ice cream and soft drink stands combined, soda fountains, street railroad cars, omnibuses, drays, transfer and all other vehicles, traveling and auction stores, plumbers, and all other business, trades and avocations whatsoever, and fix the rate of carriage of persons, drayage and cartage of property; and to license, tax, regulate and suppress ordinaries, money brokers, money changers, intelligence and employment offices and agencies, public masquerades, balls, street exhibitions, dance houses, fortune tellers, pistol galleries, corn doctors, private venereal hospitals, museums, menageries, equestrian performances, horoscopic views, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, billiard tables, pool tables and other tables, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, tippling houses, and sales of unclaimed goods by express companies or common carriers, auto wrecking shops and junk dealers; to license, tax and regulate hackmen, draymen, omnibus drivers, porters and all others pursuing like occupations, with or without vehicles, and to prescribe their compensation; and to regulate, license and restrain runners for steamboats, cars, and public houses; and to license ferries, and to regulate the same and the landing thereof within the limits of the city, and to license and tax auto liveries, auto drays and jitneys.

2. Notwithstanding any other law to the contrary, no city of the fourth classification with more than eight hundred but less than nine hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of twenty-seven dollars per room per year.

No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitations of this subsection shall be automatically reduced to comply with this subsection.

3. Notwithstanding any other law to the contrary, no city of the fourth classification with more than four thousand one hundred but less than four thousand two hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of thirteen dollars and fifty cents per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitations of this subsection shall be automatically reduced to comply with this subsection.

4. Notwithstanding any other law to the contrary, on or after January 1, 2006, no city of the fourth classification with more than fifty-one thousand but fewer than fifty-two thousand inhabitants and located in any county with a charter form of government and with more than two hundred eighty thousand but less than two hundred eighty-five thousand shall levy or collect a license fee on hotels or motels in an amount in excess of one thousand dollars per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitation of this subsection shall be automatically reduced to comply with this subsection.

5. Any city under subsection 4 of this section may increase a hotel and motel license tax by five percent per year but the total tax levied under this section shall not exceed one-eighth of one percent of such hotel or motel's gross revenue.

6. Any city under subsection 1, 2, and 3 of this section may increase a hotel and motel license tax by five percent per year but the total tax levied under this section shall not exceed the greater of:

(1) One-eighth of one percent of such hotel or motel's gross revenue; or

(2) The business license tax rate for such hotel or motel on May 1, 2005.

7. The provisions of subsection 6 shall not apply to any tax levied by a city when the revenue from such tax is restricted for use to a project from which bonds are outstanding as of May 1, 2005.

94.660. TRANSPORTATION SALES TAX, BALLOT — EFFECTIVE, WHEN — APPROVAL REQUIRED IN CITY AND COUNTY — COLLECTION, FUND CREATED — USE OF FUNDS — ABOLITION OF TAX, PROCEDURE — REDUCTION OF RATE. — 1. The governing body of any city not within a county and any county of the first classification having a charter form of government with a population of over nine hundred thousand inhabitants may propose, by ordinance or order, a transportation sales tax of up to **[**one-half of**]** one percent for submission to the voters of that city or county at an authorized election date selected by the governing body.

2. Any sales tax approved under this section shall be imposed on the receipts from the sale at retail of all tangible personal property or taxable services within the city or county adopting the tax, if such property and services are subject to taxation by the state of Missouri under sections 144.010 to 144.525, RSMo.

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

Shall the county/city of . . . . . (county's or city's name) impose a county/city-wide sales tax of . . . . . percent for the purpose of providing a source of funds for public transportation purposes?

[ ] YES **[ ]** NO

Except as provided in subsection 4 of this section, if a majority of the votes cast in that county or city not within a county on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall go into effect on the first day of the next calendar quarter beginning after its adoption and notice to the director of revenue, but no sooner than thirty days after such adoption and notice. If a majority of the votes cast in that county or city not within a

county by the qualified voters voting are opposed to the proposal, then the additional sales tax shall not be imposed in that county or city not within a county unless and until the governing body of that county or city not within a county shall have submitted another proposal to authorize the local option transportation sales tax authorized in this section, and such proposal is approved by a majority of the qualified voters voting on it. 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.

4. No tax shall go into effect under this section in any city not within a county or any county of the first classification having a charter form of government with a population over nine hundred thousand inhabitants unless and until both such city and such county approve the tax.

5. All sales taxes collected by the director of revenue under this section on behalf of any city or county, 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, shall be deposited with the state treasurer in a special trust fund, which is hereby created, to be known as the "County Public Transit Sales Tax Trust Fund". The sales taxes shall be collected as provided in section 32.087, RSMo. 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 director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each city or county approving a sales tax under this section, and the records shall be open to inspection by officers of the city or county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city or county which levied the tax, and such funds shall be deposited with the treasurer of each such city or county and all expenditures of funds arising from the county public transit sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county or city not within a county.

6. The revenues derived from any transportation sales tax under this section shall be used only for the planning, development, acquisition, construction, maintenance and operation of public transit facilities and systems other than highways.

7. The director of revenue may authorize the state treasurer to make refunds from the amount in the trust fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities or counties. If any city or county abolishes the tax, the city or county 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 city or county, the director of revenue shall authorize the state treasurer to remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

94.700. DEFINITIONS. — The following words, as used in sections 94.700 to 94.755, shall have the following meaning unless a different meaning clearly appears from the context:

(1) "City" shall mean any incorporated city, town, or village in the state of Missouri with a population of **[**two hundred**]** **one hundred** or more, but the term "city" does not include any city not within a county or any city of over four hundred thousand inhabitants wholly or partially within a first class county;

(2) "City transit authority" shall mean a commission or board created by city charter provision or by ordinance of a city, and which operates a public mass transportation system;

(3) "City utilities board" shall mean a board or commission created by city charter provision or by ordinance of a city, which controls and operates city-owned utilities including a public mass transportation system;

(4) "Director of revenue" shall mean the director of revenue of the state of Missouri;

(5) "Interstate transportation authority" shall mean any political subdivision created by compact between this state and another state, which is a body corporate and politic and a political subdivision of both contracting states, and which operates a public mass transportation system;

(6) "Interstate transportation district" shall mean that geographical area set forth and defined in the particular compact between this state and another state;

(7) "Person" shall mean an individual, corporation, partnership, or other entity;

(8) "Public mass transportation system" shall mean a transportation system or systems owned and operated by an interstate transportation authority, a municipality, a city transit authority, or a city utilities board, employing motor buses, rails or any other means of conveyance, by whatsoever type or power, operated for public use in the conveyance of persons, mainly providing local transportation service within an interstate transportation district or municipality;

(9) "Transportation purposes" shall mean financial support of a "public mass transportation system"; the construction, reconstruction, repair and maintenance of streets, roads and bridges within a municipality; the construction, reconstruction, repair and maintenance of airports owned and operated by municipalities; the acquisition of lands and rights-of-way for streets, roads, bridges and airports; and planning and feasibility studies for streets, roads, bridges, and airports. "Bridges" shall include bridges connecting a municipality with another municipality either within or without the state, with an unincorporated area of the state, or with another state or an unincorporated area thereof.

94.837. TRANSIENT GUEST TAX (CANTON, LAGRANGE, EDINA). — 1. The governing body of any city of the fourth classification with more than two thousand five hundred but fewer than two thousand six hundred inhabitants and located in any county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants, the governing body of any special charter city with more than nine hundred fifty but fewer than one thousand fifty inhabitants, and the governing body of any city of the fourth classification with more than one thousand two hundred but fewer than one thousand three hundred inhabitants and located in any county of the third classification without a township form of government and with more than four thousand three hundred but fewer than four thousand four hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which shall be 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 submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and the proceeds of such tax shall be used by the city solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in ..... (name of city) at a rate of ..... (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are

opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

3. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

94.838. TRANSIENT GUEST TAX AND TAX ON RETAIL SALES OF FOOD (LAMAR HEIGHTS). — 1. As used in this section, the following terms mean:

(1) "Food", all articles commonly used for food or drink, including alcoholic beverages, the provisions of chapter 311, RSMo, notwithstanding;

(2) "Food establishment", any cafe, cafeteria, lunchroom, or restaurant which sells food at retail;

(3) "Municipality", any fourth class city with more than two hundred but less than three hundred inhabitants and located in any county of the third classification with a township form of government and with more than twelve thousand five hundred but less than twelve thousand six hundred inhabitants;

(4) "Transient guest", a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

2. The governing body of any municipality may impose, by order or ordinance:

(1) A tax, not to exceed six percent per room per night, on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the municipality or a portion thereof; and

(2) A tax, not to exceed two percent, on the gross receipts derived from the retail sales of food by every person operating a food establishment in the municipality.

The taxes shall be imposed solely for the purpose of funding the construction, maintenance, and operation of capital improvements. The order or ordinance shall not become effective unless the governing body of the municipality submits to the voters of the municipality at a state general or primary election a proposal to authorize the governing body of the municipality to impose taxes under this section. The taxes authorized in this section shall be in addition to the charge for the sleeping room, the retail sales of food at a food establishment, and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

3. The ballot of submission for the taxes authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the municipality) impose a tax on the charges for all retail sales of food at a food establishment situated in ..... (name of municipality) at a rate of ..... (insert rate of percent) percent, and for all sleeping rooms paid by the transient guests of hotels and motels situated in ..... (name of municipality) at a rate of ..... (insert rate of percent) percent, solely for the purpose of funding the construction, maintenance, and operation of capital improvements?

YES NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the taxes shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the taxes. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the taxes shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

4. Any tax on the retail sales of food imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo, and any transient guest tax imposed under this section shall be administered, collected, enforced, and

operated by the municipality imposing the tax. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

5. Once the initial bonds, if any, have been satisfied, then the governing body of any municipality that has adopted the taxes authorized in this section may submit the question of repeal of the taxes to the voters on any date available for elections for the municipality. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the municipality) repeal the taxes imposed at the rates of ..... (insert rate of percent) and ..... (insert rate of percent) percent for the purpose of funding the construction, maintenance, and operation of capital improvements?

YES NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Once the initial bonds, if any, have been satisfied, then whenever the governing body of any municipality that has adopted the taxes authorized in this section receives a petition, signed by ten percent of the registered voters of the municipality voting in the last gubernatorial election, calling for an election to repeal the taxes imposed under this section, the governing body shall submit to the voters of the municipality a proposal to repeal the taxes. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

100.050. APPROVAL OF PLAN BY GOVERNING BODY OF MUNICIPALITY — INFORMATION REQUIRED — ADDITIONAL INFORMATION REQUIRED, WHEN — PAYMENTS IN LIEU OF TAXES, APPLIED HOW. — 1. Any municipality proposing to carry out a project for industrial development shall first, by majority vote of the governing body of the municipality, approve the plan for the project. The plan shall include the following information pertaining to the proposed project:

(1) A description of the project;

(2) An estimate of the cost of the project;

(3) A statement of the source of funds to be expended for the project;

(4) A statement of the terms upon which the facilities to be provided by the project are to be leased or otherwise disposed of by the municipality; and

(5) Such other information necessary to meet the requirements of sections 100.010 to 100.200.

2. If the plan for the project is approved after August 28, 2003, and the project plan involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality, the project plan shall additionally include the following information:

(1) A statement identifying each school district, **junior college district,** county, or city affected by such project except property assessed by the state tax commission pursuant to chapters 151 and 153, RSMo;

(2) The most recent equalized assessed valuation of the real property and personal property included in the project, and an estimate as to the equalized assessed valuation of real property and personal property included in the project after development;

(3) An analysis of the costs and benefits of the project on each school district, **junior college district,** county, or city; and

(4) Identification of any payments in lieu of taxes expected to be made by any lessee of the project, and the disposition of any such payments by the municipality.

3. If the plan for the project is approved after August 28, 2003, any payments in lieu of taxes expected to be made by any lessee of the project shall be applied in accordance with this section. The lessee may reimburse the municipality for its actual costs of issuing the bonds and administering the plan. All amounts paid in excess of such actual costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer or other financial officer to each school district, **junior college district,** county, or city in proportion to the current ad valorem tax levy of each school district, **junior college district,** county, or city**; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, if the plan for the project is approved after May 15, 2005, such amounts shall be disbursed by the municipality's treasurer or other financial officer to each affected taxing entity in proportion to the current ad valorem tax levy of each affected taxing entity**.

100.059. NOTICE OF PROPOSED PROJECT FOR INDUSTRIAL DEVELOPMENT, WHEN, CONTENTS — LIMITATION ON INDEBTEDNESS, INCLUSIONS — APPLICABILITY, LIMITATION. — 1. The governing body of any municipality proposing a project for industrial development which involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality shall, not less than twenty days before approving the plan for a project as required by section 100.050, provide notice of the proposed project to the county in which the municipality is located and any school district that is a school district, **junior college district,** county, or city**; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, if the plan for the project is approved after May 15, 2005, such notice shall be provided to all taxing affected entities in the county**. Such notice shall include the information required in section 100.050, shall state the date on which the governing body of the municipality will first consider approval of the plan, and shall invite such school districts, counties, or cities to submit comments to the governing body and the comments shall be fairly and duly considered.

2. Notwithstanding any other provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to section 26(b), article VI, Constitution of Missouri, 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.

3. The county assessor shall include the current assessed value of all property within the school district, county, or city 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 section 26(b), article VI, Constitution of Missouri.

4. This section is applicable only if the plan for the project is approved after August 28, 2003.

135.010. DEFINITIONS. — As used in sections 135.010 to 135.030 the following words and terms mean:

(1) "Claimant", a person or persons claiming a credit under sections 135.010 to 135.030. If the persons are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a property tax credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year, or the claimant or spouse is a veteran of any branch of the armed forces of the United States or this state who became one hundred percent disabled as a result of such service, or the claimant or spouse is disabled as defined in subdivision (2) of this section, and such claimant or spouse provides proof of such disability in such form and manner, and at such times, as the director of revenue may require, or if the claimant has reached the age of sixty on or before the last day of the calendar year and such claimant received surviving spouse Social Security benefits during the calendar year and the claimant provides proof, as required by the director of revenue, that the claimant received surviving spouse Social Security benefits during the calendar year for which the credit will be claimed. **A claimant shall not be allowed a property tax credit if the claimant filed a valid claim for a credit under section 137.106 in the year following the year for which the property tax credit is claimed.** The residency requirement shall be deemed to have been fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax credit if a person of the age of sixty-five years or older who would have otherwise met the requirements for a property tax credit dies before the last day of the calendar year. The residency requirement shall also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who would have otherwise met the requirements for a property tax credit but who dies before the last day of the calendar year;

(2) "Disabled", the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A claimant shall not be required to be gainfully employed prior to such disability to qualify for a property tax credit;

(3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length, of a homestead during the calendar year, exclusive of charges for health and personal care services and food furnished as part of the rental agreement, whether or not expressly set out in the rental agreement. If the director of revenue determines that the landlord and tenant have not dealt at arm's length, and that the gross rent is excessive, then he shall determine the gross rent based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually paid prior to the date a return is filed. The director of revenue may prescribe regulations requiring a return of information by a landlord receiving rent, certifying for a calendar year the amount of gross rent received from a tenant claiming a property tax credit and shall, by regulation, provide a method for certification by the claimant of the amount of gross rent paid for any calendar year for which a claim is made. The regulations authorized by this subdivision may require a landlord or a tenant or both to provide data relating to health and personal care services and to food. Neither a landlord nor a tenant may be required to provide data relating to utilities, furniture, home furnishings or appliances;

(4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. It may consist of part of a multidwelling or multipurpose building and part of the land upon which it is built. "Owned" includes a vendee in possession under a land contract and one or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant actually in possession if he was the immediate former owner of record, if a lineal descendant is presently the owner of record, and if the claimant actually pays all taxes upon the property. It may include a mobile home;

(5) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo, less two thousand dollars as an exemption for the claimant's spouse residing at the same address, and increased, where necessary, to reflect the following:

(a) Social Security, railroad retirement, and veterans payments and benefits unless the claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one hundred percent service-connected, disabled veteran. The one hundred percent service-connected disabled veteran shall not be required to list veterans payments and benefits;

(b) The total amount of all other public and private pensions and annuities;

(c) Public relief, public assistance, and unemployment benefits received in cash, other than benefits received under this chapter;

(d) No deduction being allowed for losses not incurred in a trade or business;

(e) Interest on the obligations of the United States, any state, or any of their subdivisions and instrumentalities;

(6) "Property taxes accrued", property taxes paid, exclusive of special assessments, penalties, interest, and charges for service levied on a claimant's homestead in any calendar year. Property taxes shall qualify for the credit only if actually paid prior to the date a return is filed. The director of revenue shall require a tax receipt or other proof of property tax payment. If a homestead is owned only partially by claimant, then "property taxes accrued" is that part of property taxes levied on the homestead which was actually paid by the claimant. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of revenue for collection. If a claimant owns a homestead part of the preceding calendar year and rents it or a different homestead for part of the same year, "property taxes accrued" means only taxes levied on the homestead both owned and occupied by the claimant, multiplied by the percentage of twelve months that such property was owned and occupied as the homestead of the claimant during the year. When a claimant owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable to those several properties occupied by the claimant as a homestead for the year. If a homestead is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part;

(7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by a claimant and spouse in the calendar year.

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

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

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

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

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, **or as excess home dock city or county fees as provided in subsection 4 of section 313.820, RSMo,** in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

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

shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

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

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

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

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

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun

after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

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

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

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

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

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one-hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

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

shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

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

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

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

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

11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the

effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

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;

(7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision **or to any religious, educational, or charitable organization which has obtained an exemption from the payment of federal income taxes, provided the motor vehicles are used exclusively for religious, educational, or charitable purposes**; and

(8) Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, to another for which or whom such property is not exempt when immediately after the lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the interstate compact agency. Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:

(a) The right of the interstate compact agency to use, control, and possess the property is terminated;

(b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and

(c) There are no provisions for reverter of the property within the limitation period for reverters.

137.106. HOMESTEAD PRESERVATION — DEFINITIONS — HOMESTEAD EXEMPTION CREDIT RECEIVED, WHEN, APPLICATION PROCESS — ASSESSOR'S DUTIES — DEPARTMENT OF REVENUE DUTIES — EXEMPTION LIMIT SET, WHEN, HOW APPLIED — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section may be known and may be cited as "The Missouri Homestead Preservation Act".

2. As used in this section, the following terms shall mean:

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Disabled", as such term is defined in section 135.010, RSMo;

(4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to subsection 4 of this section; in the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to subsection 4 of this section did not exceed the maximum upper limit; **in the case of property held in trust, the eligible owner and recipient of the tax credit shall be the trust itself provided the previous owner of the homestead or the previous owner's spouse: is the settlor of the trust with respect to the homestead; currently resides in such homestead; and but for the transfer of such property would have satisfied the age, ownership, and maximum upper limit requirements for income as defined in subdivisions 7 and 8 of this subsection;** no individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year, **[**not including the year in which the application was completed,**]** shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person **[**qualifies**] filed a valid claim** for the senior citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value**, except where an eligible owner of the property has made such improvements to accommodate a disabled person**;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not including improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection **[**8**] 10** of this section**. For applications filed in 2005 or 2006, the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005. For applications filed between April 1, 2005 and September 30, 2006, an eligible owner, who otherwise satisfied the requirements of this section, shall not apply for the homestead exemption credit more than once during such period. For applications filed after 2006, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application**;

(7) "Income", federal adjusted gross income**, and in the case of ownership of the homestead by trust, the income of the settlor applicant shall be imputed to the income of the trust for purposes of determining eligibility with regards to the maximum upper limit**;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill.

The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. **If application is made in 2005,** any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property; and

(4) That any improvements made to the homestead**, not made to accommodate a disabled person,** did not total more than five percent of the prior year appraised value. The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. **If application is made in 2005,** the assessor, upon **[**receiving**] request for** an application, shall:

(1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;

(2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks **for inclusion on the form**;

(3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and

(4) Sign the application, certifying the accuracy of the assessor's entries.

6. **If application is made after 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application. Applications may be completed between April 1 and September 30 of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided by the department. Forms also shall be made available on the department's internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:**

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property;

(4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value; and

(5) The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the three prior tax years.

7. Each applicant shall send the application to the department by September thirtieth of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

[7.**] 8. If application is made in 2005,** upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements verify

compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the tax year that ended immediately prior. Such eligible owners shall be disqualified from receiving the credit in the current tax year.

[8.**] 9. If application is made after 2005, upon receipt of the applications, the department shall calculate the tax liability, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income is verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.**

10. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

[9.**] 11. [**If, in any given year,**] For applications made in 2005,** the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

[10.**] 12.** After setting the homestead exemption limit **for applications made in 2005**, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form

of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation **and assessment fund allocation** to the county collector's funds of each county **or the treasurer ex officio collector's fund in counties with a township form of government** where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector **or the treasurer ex officio collector in counties with a township form of government**, shall be deposited in the county collector's fund of a county **or the treasurer ex officio collector's fund** or may be sent by mail to the collector of a county**, or the treasurer ex officio collector in counties with a township form of government,** not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues **by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government**, so as to exactly offset each homestead exemption credit being issued. **In counties with a township form of government, the county clerk shall provide the treasurer ex officio collector a summary of the homestead exemption credit for each township for the purpose of distributing the total homestead exemption credit to each township collector in a particular county.**

[11.**] 13. If, in any given year after 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.**

14. After setting the homestead exemption limit for applications made after 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex-officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

15. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

[12.**] 16.** In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to **[**the mailing of the tax bill**] January first of the year in which the credit would otherwise be applied**, the credit shall be void and any corresponding moneys, pursuant to subsection 10 of this section, shall lapse to the state to be credited to the general revenue fund. **In the event the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government determines prior to issuing the credit that the individual is not an eligible owner because the individual did not pay the prior three years' property tax liability in full, the credit shall be void and any corresponding moneys, under subsection 11 of this section, shall lapse to the state to be credited to the general revenue fund.**

[13.**] 17.** This section shall apply to all tax years beginning on or after January 1, 2005. This subsection shall become effective June 28, 2004.

[14.**] 18.** In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal.

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, 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;

(38) All sales or other transfers of tangible personal property to a lessor, who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer, to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo.

144.044. NEW MANUFACTURED HOMES AND MODULAR UNITS — PARTIAL SALES TAX EXEMPTION. — 1. As used in this section, the **[**phrase**]** **following terms mean:**

(1) "Sale of a modular unit", a transfer of a modular unit as defined in section 700.010, RSMo;

(2) "Sale of a new manufactured home" **[**shall be defined to be**],** a transfer of a manufactured home, as defined in section 700.010, RSMo, which involves the delivery of the document known as the manufacturer's statement of origin to a person other than a manufactured home dealer, as dealer is defined in section 700.010, RSMo, for purposes of allowing such person to obtain a title to the manufactured home from the department of revenue of this state or the appropriate agency or officer of any other state.

2. In the event of the sale of a new manufactured home, forty percent of the purchase price, as defined in section 700.320, RSMo, shall be considered the sale of a service and not the sale of tangible personal property. In addition to the exemptions granted under the provisions of section 144.030, the sale of services as defined in this section shall be specifically exempted from the provisions of sections 238.235 and 238.410, RSMo, the local sales tax law as defined in section 32.085, RSMo, sections 144.010 to 144.525 and 144.600 to 144.745, and from the computation of the tax levied, assessed or payable under sections 238.235 and 238.410, RSMo, the local sales tax law as defined in section 32.085, RSMo, sections 144.010 to 144.525 and 144.600 to 144.745, and section 238.235, RSMo.

3. In the event of the sale of a new modular unit, forty percent of the retail sale of the unit or forty percent of the manufacturer's sales price of the unit if the manufacturer makes a sale to a consumer that is not a retail sale, plus any carrier charge and freight charges shall be considered the sale of a service and sixty percent shall be the retail sale of tangible personal property. In addition to the exemptions granted under the provisions of section 144.030, the sale of services as defined in this section shall be specifically exempted from the provisions of sections 238.235 and 238.410, RSMo, the local sales tax law as defined in section 32.085, RSMo, sections 144.010 to 144.525 and 144.600 to 144.745, and from the computation of the tax levied, assessed, or payable under sections 238.235 and 238.410, RSMo, the local sales tax law as defined in section 32.085, RSMo, sections 144.010 to 144.525 and 144.600 to 144.745, and section 238.235, RSMo.

144.518. EXEMPTION FOR MACHINES OR PARTS FOR MACHINES USED IN A COMMERCIAL, COIN-OPERATED AMUSEMENT AND VENDING BUSINESS. — In addition to the exemptions granted pursuant to section 144.030, there is hereby specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.391 to 67.395, RSMo, sections 67.500 to 67.545, RSMo, section 67.547, RSMo, sections 67.550 to 67.594, RSMo, sections 67.665 to 67.667, RSMo, sections 67.671 to 67.685, RSMo, sections 67.700 to 67.727, RSMo, section 67.729, RSMo, sections 67.730 to 67.739, RSMo, sections 67.1000 to 67.1012, RSMo, **section 82.850, RSMo,** sections 92.325 to 92.340, RSMo, sections 92.400 to 92.421, RSMo, sections 94.500 to 94.570, RSMo, section 94.577, RSMo, sections 94.600 to 94.655, RSMo, section 94.660, RSMo, sections 94.700 to 94.755, RSMo, sections 94.800 to 94.825, RSMo, section 94.830, RSMo, sections 94.850 to 94.857, RSMo, sections 94.870 to 94.881, RSMo, section 94.890, RSMo, sections 144.010 to 144.525, and sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, sections 238.235 and 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, and section 644.032, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 66.600 to 66.635, RSMo, sections 67.391 to 67.395, RSMo, sections 67.500 to 67.545, RSMo, section 67.547, RSMo, sections 67.550 to 67.594, RSMo, sections 67.665 to 67.667, RSMo, sections 67.671 to 67.685, RSMo, sections 67.700 to 67.727, RSMo, section 67.729, RSMo, sections 67.730 to 67.739, RSMo, sections 67.1000 to 67.1012, RSMo, **section 82.850, RSMo,** sections 92.325 to 92.340, RSMo, sections 92.400 to 92.421, RSMo, sections 94.500 to 94.570, RSMo, section 94.577, RSMo, sections 94.600 to 94.655, RSMo, section 94.660, RSMo, sections 94.700 to 94.755, RSMo, sections 94.800 to 94.825, RSMo, section 94.830, RSMo, sections 94.850 to 94.857, RSMo, sections 94.870 to 94.881, RSMo, section 94.890, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, sections 238.235 and 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, and section 644.032, RSMo, machines or parts for machines used in a commercial, coin-operated amusement and vending business where sales tax is paid on the gross receipts derived from the use of commercial, coin-operated amusement and vending machines.

184.352. DEFINITIONS. — The following terms whenever used or referred to in sections 184.350 to 184.384 shall unless a different intent clearly appears from the context be construed to have the following meaning:

(1) **"African American history museum and cultural subdistrict", shall consist of a political subdistrict which shall provide for the collection, preservation, and exhibition of items relating to the history and culture of African Americans, more specifically for interpretation through core exhibits that may include wax sculptures, photographs, paintings, and other artistic expressions; and further for the collection of costumes, archaeological anthropological material, artifacts, and memorabilia; and for the maintenance of archives, including manuscripts, personal records, and other material that relates to the African American experience to American history; and to provide for the preservation of American music traditions, including ragtime, jazz, blues, and gospel; and to provide technical assistance and advisory service for historic research or which may contract with another person with the capability of providing such services;**

(2) "Art museum subdistrict" shall consist of such institutions and places for the purpose of collection and exhibition of pictures, statuary and other works of art and whatever else may be of artistic interest and appropriate for exhibition in an art gallery or museum for instruction in art and in general for the promotion by all proper means of aesthetic or artistic education;

[(2)**] (3)** "Board", the governing body of the metropolitan zoological park and museum district;

[(3)**] (4)** "Botanical garden subdistrict" shall consist of a political subdistrict which shall provide for the collection and exhibition of displays of things relating to plants or botany, for the promotion of plant life and related subjects, educational and research activities, for the maintenance of a botanical library, and for the promotion by all proper means of public interest in plant life and botany; or which may contract with another person with the capability of providing such services;

[(4)**] (5)** "City", a constitutional charter city not located within a county;

[(5)**] (6)** "Commission", the governing body of each of the respective subdistricts as may be authorized as provided in section 184.350, 184.351, or 184.353;

[(6)**] (7)** "County", a constitutional charter county adjoining a constitutional charter city;

[(7)**] (8)** "District", the metropolitan zoological park and museum district;

[(8)**] (9)** "Missouri history museum subdistrict" shall consist of a political subdistrict which shall provide for the collection, preservation, and exhibition of items relating to the history of the entire state of Missouri and of the Louisiana Purchase Territory, and more specifically for the collection and display of photographs, paintings, costumes, archaeological and anthropological material, artifacts and memorabilia pertaining to the political, commercial and cultural history of the region, including extensive artifacts, memorabilia, historical documents concerning the first solo transatlantic flight, for the promotion of archaeological and historical studies, for the maintenance of a history library and archives, including manuscripts documenting the first United States sponsored exploratory expedition of the Louisiana Purchase Territory as well as papers of the president who authorized the Louisiana Purchase, and for the promotion by all proper means of public interest in the history of Missouri and the region in which it is located, and, as otherwise provided by law and in cooperation with the department of natural resources of the state of Missouri, to provide technical assistance and advisory services for the collection, preservation, and exhibition of recordings, instruments, and memorabilia of ragtime, jazz and blues music including ragtime pianos and ragtime piano sheet music to be housed and maintained at the Scott Joplin house state historic site; or which may contract with another person having all of the historical materials listed herein as well as the capability of providing all of the services listed herein;

[(9)**] (10)** "Recreation and amateur sports subdistrict" shall consist of a political subdistrict which shall provide for and assist in the planning, development, financing, maintenance, improvement and construction of facilities and venues to be publicly owned and operated by political subdivisions, public school districts, universities and colleges, or not-for-profit corporations chartered to attract, promote and manage major national and international amateur sports events, competitions and programs for the use of the general public. Such subdistrict shall

structure its procedures for procuring supplies, services and construction to achieve the result that a minimum of twenty percent in the aggregate of the total dollar value of annual procurements is made directly or indirectly from certified socially and economically disadvantaged small business concerns;

[(10)**] (11)** "St. Louis Science Center subdistrict" shall consist of such institutions and places for the purpose of collection and exhibition of displays of items of natural historical, industrial, transport and scientific interest, the instruction and recreation of the people, for the promotion of the study of science, industrial, transport and natural history and kindred subjects and for the promotion by all proper means of public interest in natural history, transport, industry and science;

[(11)**] (12)** "Special election", an election held on the first Tuesday of April or whenever propositions are submitted to the voters of the whole district;

[(12)**] (13)** "Symphony orchestra subdistrict" shall consist of a political subdistrict which shall provide for regular performances of a symphony orchestra with not less than ninety full-time symphonic musicians, own its own concert hall in which a substantial number of its concerts shall be held, and provide for the promotion by all proper means of public interest in music; or which may contract with another person with the capability of providing such services and which owns it own concert hall;

[(13)**] (14)** "Transport museum subdistrict" shall consist of a political subdistrict which shall provide for institutions and places for the edification of the public in the history and science of transportation, communications and powering, and more specifically for the preservation and display of artifacts related to man's efforts to transport materials, people, and ideas and to create, transmit, and utilize power, and for the provision of a library of publications and other records containing history and technology related to transportation, communications and powering, and facilities for the study of such efforts; or which may contract with another person with the capability of providing such services;

[(14)**] (15)** "Zoological subdistrict" shall consist of such institutions and places for the collection and exhibition of animals and animal life, for the instruction and recreation of the people, for the promotion of zoology and kindred subjects, for the encouragement of zoological study and research and for the increase of public interest in wild animals and in the protection of wild animal life.

184.353. BOTANICAL GARDEN — TRANSPORT MUSEUM — MISSOURI HISTORY MUSEUM — SYMPHONY ORCHESTRA AND RECREATIONAL AND AMATEUR SPORTS SUBDISTRICTS, FORMATION — ELECTION, BALLOT FORMS, TAX RATE — ADMISSION FEES — METROPOLITAN ZOOLOGICAL PARK AND MUSEUM DISTRICT, ELECTION TO PROVIDE FOR AN AFRICAN-AMERICAN HISTORY MUSEUM, BALLOT FORMS, TAX RATE. — 1. (1) The board of directors of any metropolitan zoological park and museum district, as established according to the provisions of sections 184.350 to 184.384, on behalf of the district may request the election officials of any city and county containing all or part of such district to submit the following described proposition to the qualified voters of such district at any general, primary or special election. Such election officials shall give legal notice at least sixty days prior to such general, primary or special election in at least two newspapers that such proposition shall be submitted at any general, primary or special election held for submission of the proposition.

(2) Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall the Metropolitan Zoological Park and Museum District of the City of ..... and County of ..... be authorized to provide for a Botanical Garden Subdistrict and be authorized to provide the Botanical Garden Subdistrict with a tax rate not in excess of four cents on each $100 of assessed valuation of taxable property within the district?

[ ] YES [ ] NO

(3) In the event that a majority of all the voters voting on such proposition in such city and a majority of voters voting on such proposition in such county cast "YES" votes on the proposition, then the botanical garden subdistrict shall be deemed established and the tax rate, as established by the board for such subdistrict, shall be deemed in full force and effect as of the first day of the second month following the election. The results of the election shall be certified by the election officials of such city and county, respectively, to the respective chief executive officers of such city and county not less than thirty days after the day of the election. The cost of the election shall be paid as provided by sections 115.063 and 115.065, RSMo. In the event the proposition shall fail to receive a majority of the "YES" votes in either the city or the county, then the proposition shall not be resubmitted at any election held prior to the next general or primary election in such city or county in the following year. Any such resubmission shall subsequently comply with the provisions of sections 184.350 to 184.384.

(4) If the botanical garden subdistrict shall be established, then its commissioners, or any person with whom its commissioners contract, may establish and charge fees for admission to the premises of the botanical garden subdistrict, or to the premises of any person with whom its commissioners contract, not to exceed one dollar for adults and fifty cents for children under sixteen years of age. Any increase in the fees shall be presented prior to implementation for approval or disapproval to the board of the metropolitan zoological park and museum district of which the botanical garden subdistrict is a member.

2. (1) The board of directors of any metropolitan zoological park and museum district, as established according to the provisions of sections 184.350 to 184.384, on behalf of the district may request the election officials of any city and county containing all or part of such district to submit the following described proposition to the qualified voters of such district at any general, primary or special election. Such election officials shall give legal notice at least sixty days prior to such general, primary or special election in at least two newspapers that such proposition shall be submitted at any general, primary or special election held for submission of the proposition.

(2) Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall the Metropolitan Zoological Park and Museum District of the City of ..... and County of ..... be authorized to provide for a Transport Museum Subdistrict and be authorized to provide the Transport Museum Subdistrict with a tax rate not in excess of four cents on each $100 of assessed valuation of taxable property within the district?

[ ] YES [ ] NO

(3) In the event that a majority of all the voters voting on such proposition in such city and a majority of voters voting on such proposition in such county cast "YES" votes on the proposition, then the transport museum subdistrict shall be deemed established and the tax rate, as established by the board for such subdistrict, shall be deemed in full force and effect as of the first day of the second month following the election. The results of the election shall be certified by the election officials of such city and county, respectively, to the respective chief executive officers of such city and county not less than thirty days after the day of the election. The cost of the election shall be paid as provided by sections 115.063 and 115.065, RSMo. In the event the proposition shall fail to receive a majority of the "YES" votes in either the city or the county, then the proposition shall not be resubmitted at any election held prior to the next general or primary election in such city or county in the following year. Any such resubmission shall subsequently comply with the provisions of sections 184.350 to 184.384.

(4) If the transport museum subdistrict shall be established, then its commissioners, or any person with whom its commissioners contract, may establish and charge fees for admission to the premises of the transport museum subdistrict, or to the premises of any person with whom its commissioners contract, not to exceed one dollar for adults and fifty cents for children under sixteen years of age. Any increase in the fees shall be presented prior to implementation for approval or disapproval to the board of the metropolitan zoological park and museum district of which the transport museum subdistrict is a member.

3. (1) The board of directors of any metropolitan zoological park and museum district, as established according to the provisions of sections 184.350 to 184.384, on behalf of the district may request the election officials of any city and county containing all or part of such district to submit the following described proposition to the qualified voters of such district at any general, primary or special election. Such election officials shall give legal notice at least sixty days prior to such general, primary or special election in at least two newspapers that such proposition shall be submitted at any general, primary or special election held for submission of the proposition.

(2) Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall the Metropolitan Zoological Park and Museum District of the City of ..... and the County of ..... be authorized to provide for a Missouri History Museum Subdistrict and be authorized to provide the Missouri History Museum Subdistrict with a tax rate not in excess of four cents on each $100 of assessed valuation of taxable property within the district?

[ ] YES [ ] NO

(3) In the event that a majority of all the voters voting on such proposition in such city and a majority of voters voting on such proposition in such county cast "YES" votes on the proposition, then the Missouri history museum subdistrict shall be deemed established and the tax rate, as established by the board for such subdistrict, shall be deemed in full force and effect as of the first day of the second month following the election. The results of the election shall be certified by the election officials of such city and county, respectively, to the respective chief executive officers of such city and county not less than thirty days after the day of the election. The cost of the election shall be paid as provided by sections 115.063 and 115.065, RSMo. In the event the proposition shall fail to receive a majority of the "YES" votes in either the city or the county, then the proposition shall not be resubmitted at any election held prior to the next general or primary or special election in such city or county in the following year. Any such resubmission shall subsequently comply with the provisions of sections 184.350 to 184.384.

4. (1) The board of directors of any metropolitan zoological park and museum district, as established according to the provisions of sections 184.350 to 184.354, on behalf of the district may request the election officials of any city and county containing all or part of such district to submit the following described proposition to the qualified voters of such district at any general, primary or special election. Such election officials shall give legal notice at least sixty days prior to such general, primary or special election in at least two newspapers that such proposition shall be submitted at any general, primary or special election held for submission of the proposition.

(2) Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall the Metropolitan Zoological Park and Museum District of the City of ..... and County of ..... be authorized to provide for a Symphony Orchestra Subdistrict and be authorized to provide the Symphony Orchestra Subdistrict with a tax rate not in excess of four cents on each $100 of assessed valuation of taxable property within the district?

[ ] YES [ ] NO

(3) In the event that a majority of all the voters voting on such proposition in such city and a majority of voters voting on such proposition in such county cast "YES" votes on the proposition, then the symphony orchestra subdistrict shall be deemed established and the tax rate, as established by the board for such subdistrict, shall be deemed in full force and effect as of the first day of the second month following the election. The results of the election shall be certified by the election officials of such city and county not less than thirty days after the day of election. The cost of the election shall be paid as provided by sections 115.063 and 115.065, RSMo. In the event the proposition shall fail to receive a majority of the "YES" votes in either the city or the county, then the proposition shall not be resubmitted at any election held prior to the next general or primary in such city or county in the following year. Any such resubmission shall subsequently comply with the provisions of sections 184.350 to 184.384.

(4) If the symphony orchestra subdistrict shall be established, then its commissioners, or any person with whom its commissioners contract, may charge such prices from time to time for tickets for performances conducted under the auspices of the subdistrict or as they or such person deem proper; provided, however, that no fewer than fifty tickets for each such performance conducted at the principal concert hall of such subdistrict or such person shall be made available without charge for distribution to members of the general public and no fewer than fifty tickets shall be made available without charge for distribution to students in public and private elementary, secondary schools and colleges and universities in the metropolitan zoological park and museum district and all performances of the symphony orchestra conducted at the principal concert hall of the symphony orchestra within the district shall be offered for broadcast live on a public or commercial AM or FM radio station located in and generally receivable in the district or on a public or commercial broadcast television station located in or generally receivable in the district. The symphony orchestra subdistrict shall institute a fully staffed educational music appreciation program to benefit all of the citizens of the taxing district at a nominal charge.

(5) Immediately following the effective date of the symphony orchestra subdistrict tax rate any person receiving funds from said tax rate shall become ineligible for program assistance funding from the Missouri state council on the arts.

5. The board of directors of any metropolitan zoological park and museum district, as established according to the provisions of sections 184.350 to 184.384, on behalf of the district may request the election officials of any city and county containing all or part of such district to submit the following described proposition to the qualified voters of such district at any general, primary or special election. Such election officials shall give legal notice at least sixty days prior to such general, primary or special election in at least two newspapers that such proposition shall be submitted at any general, primary or special election held for submission of the proposition. Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall a Recreational and Amateur Sports Subdistrict be authorized and provided for by the Metropolitan Zoological Park and Museum District of the City of ..... and the County of ..... and such subdistrict be authorized to establish a tax rate not in excess of four cents on each $100 of assessed valuation of taxable property within the district for a period not to exceed nine years?

[ ] YES [ ] NO

In the event that a majority of all the voters voting on such proposition in such city and a majority of voters voting on such proposition in such county cast "YES" votes on the proposition, then the recreation and amateur sports subdistrict shall be deemed established and the tax rate, as established by the board for such subdistrict, shall be deemed in full force and effect as of the first day of the second month following the election for a period not to exceed nine years. The results of the election shall be certified by the election officials of such city and county, respectively, to the respective chief executive officers of such city and county not less than thirty days after the day of the election. The cost of the election shall be paid as provided by sections 115.063 and 115.065, RSMo. In the event the proposition shall fail to receive a majority of the "YES" votes in either the city or the county, then the proposition shall not be resubmitted at any election held prior to the next general or primary or special election in such city or county in the following year. Any such resubmission shall subsequently comply with the provisions of sections 184.350 to 184.384.

6. (1) The board of directors of any metropolitan zoological park and museum district, as established according to the provisions of sections 184.350 to 184.384, on behalf of the district may request the election officials of any city and county containing all or part of such district to submit the following described proposition to the qualified voters of such district at any general, primary or special election. Such election officials shall give legal notice at least sixty days prior to such general, primary or special election in at least

two newspapers that such proposition shall be submitted at any general, primary or special election held for submission of the proposition.

(2) Such proposition shall be submitted to the voters in substantially the following form at such election:

Shall the Metropolitan Zoological Park and Museum District of the City of ..... and County of ..... be authorized to provide for an African American History Museum and Cultural Subdistrict and be authorized to provide the African American history museum and cultural subdistrict with a tax rate not in excess of four cents on each $100 of assessed valuation of taxable property within the district?

[ ] YES [ ] NO

(3) In the event that a majority of all the voters voting on such proposition in such city and a majority of voters voting on such proposition in such county cast "YES" votes on the proposition, then the African American history museum and cultural subdistrict shall be deemed established and the tax rate, as established by the board for such subdistrict, shall be deemed in full force and effect as of the first day of the second month following the election. The results of the election shall be certified by the election officials of such city and county, respectively, to the respective chief executive officers of such city and county not less than thirty days after the day of the election. The cost of the election shall be paid as provided by sections 115.063 and 115.065, RSMo. In the event the proposition shall fail to receive a majority of the "YES" votes in either the city or the county, then the proposition shall not be resubmitted at any election held prior to the next general or primary election in such city or county in the following year. Any such resubmission shall subsequently comply with the provisions of sections 184.350 to 184.384.

(4) If the African American history museum and cultural subdistrict shall be established, then its commissioners, or any person with whom its commissioners contract, may establish and charge fees for admission to the premises of the African American history museum and cultural subdistrict, or to the premises of any person with whom its commissioners contract, not to exceed one dollar for adults and fifty cents for children under sixteen years of age. Any increase in the fees shall be presented prior to implementation for approval or disapproval to the board of the metropolitan zoological park and museum district of which the African American history museum and cultural subdistrict is a member.

184.357. ZOOLOGICAL PARK — ART MUSEUM AND BOTANICAL GARDEN — INCREASE IN TAX RATE, PROCEDURE, BALLOT FORM. — 1. The board of directors of any metropolitan zoological park and museum district as established pursuant to the provisions of sections 184.350 to 184.384, on behalf of the district, may request the election officials of any city and county of such district to submit a proposition or propositions to increase the tax rate for the zoological park subdistrict and the art museum subdistrict set in section 184.350 and to increase the rate for the botanical garden subdistrict set in section 184.353 to the qualified voters of such district at any general, primary or special election. Such election officials, upon receipt of such request in the form of a verified resolution or resolutions approved by the majority of the members of such district board of directors, shall set the date of such election and give notice of such election as provided by sections 115.063 and 115.065, RSMo.

2. Such proposition or propositions shall be jointly or severally submitted to the voters in substantially the following form at such election:

(1) Shall the Metropolitan Zoological Park and Museum District of the City of ..... and County of ..... be authorized to increase the tax rate for the zoological park subdistrict up to the maximum tax rate of eight cents, or any percent thereof, on each $100 of assessed valuation of taxable property within the district for the purpose of operating, maintaining and otherwise financially supporting the subdistrict? The tax rate shall be set annually by the board based on the budget submitted by the zoological park subdistrict and approved by the board. This tax rate shall replace the present tax rate of ..... cents for the zoological park subdistrict.

[ ] YES [ ] NO

(2) Shall the Metropolitan Zoological Park and Museum District of the City of ..... and County of ..... be authorized to increase the tax rate for the art museum subdistrict up to the maximum tax rate of eight cents, or any percent thereof, on each $100 of assessed valuation of taxable property within the district for the purpose of operating, maintaining and otherwise financially supporting the subdistrict and approved by the board? The tax rate shall be set annually by the board based on the budget submitted by the art museum subdistrict and approved by the board. This tax rate shall replace the present tax rate of ..... cents for the art museum subdistrict.

[ ] YES [ ] NO

(3) Shall the Metropolitan Zoological Park and Museum District of the City of ..... and County of ..... be authorized to increase the tax rate for the botanical garden subdistrict up to the maximum tax rate of six cents, or any percent thereof, on each $100 of assessed valuation of taxable property within the district for the purpose of operating, maintaining and otherwise financially supporting the subdistrict and approved by the board? The tax rate shall be set annually by the board based on the budget submitted by the botanical garden subdistrict and approved by the board. This tax rate shall replace the present tax rate of ..... cents for the botanical garden subdistrict.

[ ] YES [ ] NO

(4) Shall the Metropolitan Zoological Park and Museum District of the City of . . . . . and County of . . . . . be authorized to increase the tax rate for the Missouri history museum subdistrict up to the maximum tax rate of six cents, or any percent thereof, on each $100 of assessed valuation of taxable property within the district for the purpose of operating, maintaining, and otherwise financially supporting the subdistrict and approved by the board? The tax rate shall be set annually by the board based on the budget submitted by the Missouri history museum subdistrict and approved by the board. This tax rate shall replace the present tax rate of . . . . . cents for the Missouri history museum subdistrict.

[ ] YES [ ] NO

In the event that a majority of the voters voting on such proposition or propositions in such city and the majority of the voters voting on such proposition or propositions in such county cast votes "YES" on the proposition or propositions, then the tax rate for such subdistrict shall be deemed in full force and effect as of the first day of the second month following the election. The results of the aforesaid election shall be certified by the election officials of such city and county, respectively, to the respective chief executive officers of such city and county not less than thirty days after the day on which such election was held. The cost of the election shall be paid as provided by sections 115.063 and 115.065, RSMo. In the event the proposition or propositions shall fail to receive a majority of the votes "YES" in either the city or the county, then the proposition or propositions shall not be resubmitted at any election held within one year of the date of the election the proposition or propositions were rejected.

210.860. TAX LEVY, AMOUNT, PURPOSES — BALLOT — DEPOSIT OF FUNDS IN SPECIAL COMMUNITY CHILDREN'S SERVICES FUND. — 1. The governing body of any county or city not within a county may, after voter approval pursuant to this section, levy a tax not to exceed twenty-five cents on each one hundred dollars of assessed valuation on taxable property in the county for the purpose of providing counseling, family support, and temporary residential services to persons eighteen years of age or less **and those services described in section 210.861**. The question shall be submitted to the qualified voters of the county or city not within a county at a county or state general, primary or special election upon the motion of the governing body of the county or city not within a county or upon the petition of eight percent of the qualified voters of the county determined on the basis of the number of votes cast for governor in such county or city not within a county at the last gubernatorial election held prior

to the filing of the petition. The election officials of the county or city not within a county shall give legal notice as provided in chapter 115, RSMo. The question shall be submitted in substantially the following form:

Shall ..... County (City) be authorized to levy a tax of ..... cents on each one hundred dollars of assessed valuation on taxable property in the county (city) for the purpose of establishing a community children's services fund for purposes of providing funds for counseling and related services to children and youth in the county (city) eighteen years of age or less and services which will promote healthy lifestyles among children and youth and strengthen families?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall be levied and collected as otherwise provided by law. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not be levied unless and until the question is again submitted to the qualified voters of the county or city not within a county and a majority of such voters are in favor of such a tax, and not otherwise.

2. All revenues generated by the tax prescribed in this section shall be deposited in the county treasury **or, in a city not within a county, to the board established by law to administer such fund** to the credit of a special "Community Children's Services Fund" **to accomplish the purposes set out herein and shall be used for no other purpose**. Such fund shall be administered by **and expended only upon approval by** a board of directors, established pursuant to section 210.861.

210.861. BOARD OF DIRECTORS, TERM, EXPENSES, ORGANIZATION — POWERS — FUNDS, EXPENDITURE, PURPOSE, RESTRICTIONS. — 1. When the tax prescribed by section 210.860 or section 67.1775, RSMo, is established, the governing body of the **city or** county shall appoint a board of directors consisting of nine members, who shall be residents of the **city or** county. All board members shall be appointed to serve for a term of three years, except that of the first board appointed, three members shall be appointed for one-year terms, three members for two-year terms and three members for three-year terms. Board members may be reappointed. In a city not within a county, or any county of the first classification with a charter form of government with a population not less than nine hundred thousand inhabitants, or any county of the first classification with a charter form of government with a population not less than two hundred thousand inhabitants and not more than six hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than one hundred seventy thousand and not more than two hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than eighty thousand and not more than eighty-three thousand inhabitants, or any third classification county with a population not less than twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the third classification with a population not less than nineteen thousand five hundred and not more than twenty thousand inhabitants the members of the community mental health board of trustees appointed pursuant to the provisions of sections 205.975 to 205.990, RSMo, shall be the board members for the community children's services fund. The directors shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses.

2. The board shall elect a chairman, vice chairman, treasurer, and such other officers as it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety bond, in an amount to be determined and in a form to be approved by the board, for the faithful performance of his duties and faithful accounting of all moneys that may come into his hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors. The board shall administer **and expend** all funds generated pursuant to section 210.860 or section 67.1775, RSMo, in a manner consistent with this section.

3. The board may contract with public or not-for-profit agencies licensed or certified where appropriate to provide qualified services and may place conditions on the use of such funds. The board shall reserve the right to audit the expenditure of any and all funds. The board and any agency with which the board contracts may establish eligibility standards for the use of such funds and the receipt of services. No member of the board shall serve on the governing body, have any financial interest in, or be employed by any agency which is a recipient of funds generated pursuant to section 210.860 or section 67.1775, RSMo.

4. Revenues collected and deposited in the community children's services fund may be expended for the purchase of the following services:

(1) Up to thirty days of temporary shelter for abused, neglected, runaway, homeless or emotionally disturbed youth; respite care services; and services to unwed mothers;

(2) Outpatient chemical dependency and psychiatric treatment programs; counseling and related services as a part of transitional living programs; home-based and community-based family intervention programs; unmarried parent services; crisis intervention services, inclusive of telephone hotlines; and prevention programs which promote healthy lifestyles among children and youth and strengthen families;

(3) Individual, group, or family professional counseling and therapy services; psychological evaluations; and mental health screenings.

5. Revenues collected and deposited in the community children's services fund may not be expended for inpatient medical, psychiatric, and chemical dependency services, or for transportation services.

313.800. DEFINITIONS — ADDITIONAL GAMES OF SKILL, COMMISSION APPROVAL, PROCEDURES. — 1. As used in sections 313.800 to 313.850, unless the context clearly requires otherwise, the following terms mean:

(1) "Adjusted gross receipts", the gross receipts from licensed gambling games and devices less winnings paid to wagerers;

(2) "Applicant", any person applying for a license authorized under the provisions of sections 313.800 to 313.850;

(3) "Bank", the elevations of ground which confine the waters of the Mississippi or Missouri Rivers at the ordinary high water mark as defined by common law;

(4) **"Capital, cultural, and special law enforcement purpose expenditures", shall include any disbursement, including disbursements for principal, interest, and costs of issuance and trustee administration related to any indebtedness, for the acquisition of land, land improvements, buildings and building improvements, vehicles, machinery, equipment, works of art, intersections, signing, signalization, parking lot, bus stop, station, garage, terminal, hanger, shelter, dock, wharf, rest area, river port, airport, light rail, railroad, other mass transit, pedestrian shopping malls and plazas, parks, lawns, trees, and other landscape, convention center, roads, traffic control devices, sidewalks, alleys, ramps, tunnels, overpasses and underpasses, utilities, streetscape, lighting, trash receptacles, marquees, paintings, murals, fountains, sculptures, water and sewer systems, dams, drainage systems, creek bank restoration, any asset with a useful life greater than one year, cultural events, and any expenditure related to a law enforcement officer deployed as horse mounted patrol, school resource or drug awareness resistance education (D.A.R.E) officer;**

[(4)**] (5)** "Cheat", to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game;

[(5)**] (6)** "Commission", the Missouri gaming commission;

[(6)**] (7)** "Dock", the location in a city or county authorized under subsection 10 of section 313.812 which contains any natural or artificial space, inlet, hollow, or basin, in or adjacent to a bank of the Mississippi or Missouri Rivers, next to a wharf or landing devoted to the embarking of passengers on and disembarking of passengers from a gambling excursion but

shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;

[(7)**] (8)** "Excursion gambling boat", a boat, ferry or other floating facility licensed by the commission on which gambling games are allowed;

(9) "Fiscal year", shall for the purposes of subsections 3 and 4 of section 313.820, mean the fiscal year of a home dock city or county;

[(8)**] (10)** "Floating facility", any facility built or originally built as a boat, ferry or barge licensed by the commission on which gambling games are allowed;

[(9)**] (11)** "Gambling excursion", the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise;

[(10)**] (12)** "Gambling game" includes, but is not limited to, games of skill or games of chance on an excursion gambling boat but does not include gambling on sporting events; provided such games of chance are approved by amendment to the Missouri Constitution;

[(11)**] (13)** "Games of chance", any gambling game in which the player's expected return is not favorably increased by his or her reason, foresight, dexterity, sagacity, design, information or strategy;

[(12)**] (14)** "Games of skill", any gambling game in which there is an opportunity for the player to use his or her reason, foresight, dexterity, sagacity, design, information or strategy to favorably increase the player's expected return; including, but not limited to, the gambling games known as "poker", "blackjack" (twenty-one), "craps", "Caribbean stud", "pai gow poker", "Texas hold'em", "double down stud", and any video representation of such games;

[(13)**] (15)** "Gross receipts", the total sums wagered by patrons of licensed gambling games;

[(14)**] (16)** "Holder of occupational license", a person licensed by the commission to perform an occupation within excursion gambling boat operations which the commission has identified as requiring a license;

[(15)**] (17)** "Licensee", any person licensed under sections 313.800 to 313.850;

[(16)**] (18)** "Mississippi River" and "Missouri River", the water, bed and banks of those rivers, including any space filled by the water of those rivers for docking purposes in a manner approved by the commission but shall not include any artificial space created after May 20, 1994, and is located more than one thousand feet from the closest edge of the main channel of the river as established by the United States Army Corps of Engineers;

(19) "Supplier", a person who sells or leases gambling equipment and gambling supplies to any licensee.

2. In addition to the games of skill referred to in subdivision **[**(12)**] (14)** of subsection 1 of this section, the commission may approve other games of skill upon receiving a petition requesting approval of a gambling game from any applicant or licensee. The commission may set the matter for hearing by serving the applicant or licensee with written notice of the time and place of the hearing not less than five days prior to the date of the hearing and posting a public notice at each commission office. The commission shall require the applicant or licensee to pay the cost of placing a notice in a newspaper of general circulation in the applicant's or licensee's home dock city or county. The burden of proof that the gambling game is a game of skill is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing his or her case by a preponderance of evidence including:

(1) Is it in the best interest of gaming to allow the game; and

(2) Is the gambling game a game of chance or a game of skill?

All testimony shall be given under oath or affirmation. Any citizen of this state shall have the opportunity to testify on the merits of the petition. The commission may subpoena witnesses to offer expert testimony. Upon conclusion of the hearing, the commission shall evaluate the record of the hearing and issue written findings of fact that shall be based exclusively on the evidence and on matters officially noticed. The commission shall then render a written decision on the merits which shall contain findings of fact, conclusions of law and a final commission order.

The final commission order shall be within thirty days of the hearing. Copies of the final commission order shall be served on the petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.

313.820. ADMISSION FEE, AMOUNT, DIVISION OF — LICENSEES SUBJECT TO ALL OTHER TAXES, COLLECTION OF NONGAMING TAXES BY DEPARTMENT OF REVENUE — CAP ON AMOUNT TO BE COLLECTED, EXCEPTIONS. — 1. An excursion boat licensee shall pay to the commission an admission fee of two dollars for each person embarking on an excursion gambling boat with a ticket of admission. One dollar of such fee shall be deposited to the credit of the gaming commission fund as authorized pursuant to section 313.835, and one dollar of such fee shall not be considered state funds and shall be paid to the home dock city or county. Subject to appropriation, one cent of such fee deposited to the credit of the gaming commission fund may be deposited to the credit of the compulsive gamblers fund created pursuant to the provisions of section 313.842. Nothing in this section shall preclude any licensee from charging any amount deemed necessary for a ticket of admission to any person embarking on an excursion gambling boat. If tickets are issued which are good for more than one excursion, the admission fee shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes, property taxes or any other tax or fee now or hereafter lawfully levied by any political subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision. All state taxes not connected directly to gambling games shall be collected by the department of revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the department of revenue may furnish and the commission may receive tax information to determine if applicants or licensees are complying with the tax laws of this state; however, any tax information acquired by the commission shall not become public record and shall be used exclusively for commission business.

3. Effective fiscal year 2008 and each fiscal year thereafter, the amount of revenue derived from admission fees paid to a home dock city or county shall not exceed the percentage of gross revenue realized by the home dock city or county attributable to such admission fees for fiscal year 2007. In the case of a new casino, the provisions of this section shall become effective two years from the opening of such casino and the amount of revenue derived from admission fees paid to a home dock city or county shall not exceed the average percentage of gross revenue realized by the home dock city or county attributable to such admission fees for the first two fiscal years in which such casino opened for business. Effective fiscal year 2010 and each subsequent fiscal year until fiscal year 2015, the percentage of all revenue derived by a home dock city or county from such admission fees used for expenditures other than capital, cultural, and special law enforcement purpose expenditures shall be limited to not more than thirty percent. Effective fiscal year 2015 and each subsequent fiscal, the percentage of all revenue derived by a home dock city or county from such admission fees used for expenditures other than capital, cultural, and special law enforcement purpose expenditures shall be limited to not more than twenty percent.

4. After fiscal year 2007, in any fiscal year in which a home dock city or county collects an amount over the limitation on revenue derived from admission fees provided

in subsection 1 of this section, such revenue shall be treated as if it were sales tax revenue within the meaning of section 67.505, RSMo, provided that the home dock city or county shall reduce its total general revenue property tax levy, in accordance with the method provided in subdivision (6) of subsection 3 of section 67.505, RSMo.

5. The provisions of subsections 3 and 4 of this section shall not affect the imposition or collection of a tax under section 313.822.

6. The provisions of subsections 3 and 4 of this section shall not apply to any city of the third classification with more than eight thousand two hundred but fewer than eight thousand three hundred inhabitants, any county of the third classification without a township form of government and with more than sixteen thousand six hundred but fewer than sixteen thousand seven hundred inhabitants, any county of the third classification without a township form of government and with more than ten thousand two hundred but fewer than ten thousand three hundred inhabitants, any home rule city with more than four hundred thousand inhabitants and located in more than one county, any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any city of the fourth classification with more than two thousand nine hundred but fewer than three thousand inhabitants and located in any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, any city of the third classification with more than six thousand seven hundred but fewer than six thousand eight hundred inhabitants and located in any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any city of the third classification with more than four thousand seven hundred but fewer than four thousand eight hundred inhabitants and located in any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any city of the third classification with more than twenty-five thousand seven hundred but fewer than twenty-five thousand nine hundred inhabitants, any county with a charter form of government and with more than one million inhabitants, any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, any special charter city with more than nine hundred fifty but fewer than one thousand fifty inhabitants, any county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants, any city not within a county, any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants, and any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants.

SECTION 1. RECREATION SALES TAX — BALLOT LANGUAGE — RATE OF TAX — REVENUE DIRECTOR'S DUTIES — REFUNDS AUTHORIZED — EXPIRATION DATE (MADISON COUNTY). — 1. Any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but fewer than eleven thousand eight hundred fifty inhabitants may impose a sales tax throughout the county for public recreational projects and programs, but the sales tax authorized by this section shall not become effective unless the governing body of such county submits to the qualified voters of the county a proposal to authorize the county to impose the sales tax.

2. The ballot submission shall be in substantially the following form:

Shall the County of ..... impose a sales tax of up to one percent for the purpose of funding the financing, acquisition, construction, operation, and maintenance of recreational projects and programs, including the acquisition of land for such purposes?

[ ] YES [ ] NO

3. If approved by a majority of qualified voters in the county, the governing body of the county shall appoint a board of directors consisting of nine members. Of the initial members appointed to the board, three members shall be appointed for a term of three years, three members shall be appointed for a term of two years, and three members shall be appointed for a term of one year. After the initial appointments, board members shall be appointed to three-year terms.

4. The sales tax may be imposed at a rate of up to one percent on the receipts from the retail sale of all tangible personal property or taxable service within the county, if such property and services are subject to taxation by the state of Missouri under sections 144.010 to 144.525, RSMo.

5. All revenue collected from the sales tax under this section by the director of revenue on behalf of a county, less one percent for the 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 with the state treasurer in a special trust fund, which is hereby created, to be known as the "County Recreation Sales Trust Fund". Moneys in the fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund collected in each county imposing a sales tax under this section, and the records shall be open to the inspection of officers of such county and the general public. Not later than the tenth day of each calendar month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding calendar month by distributing to the county treasurer, or such officer as may be designated by county ordinance or order, of each county imposing the tax under this section the sum due the county as certified by the director of revenue.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. Each county shall notify the director of revenue at least ninety days prior to the effective date of the expiration of the sales tax authorized by this section 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 overpayments of such tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the date of expiration of the tax authorized by this section in a county, the director of revenue shall remit the balance in the account to the county and close the account of such county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due such county.

7. The tax authorized under this section may be imposed in accordance with this section by a county in addition to or in lieu of the tax authorized in sections 67.750 to 67.780, RSMo.

8. The sales tax imposed under this section shall expire twenty years from the effective date thereof unless an extension of the tax is submitted to and approved by the qualified voters in the county in the manner provided in this section. Each extension of the sales tax shall be for a period of ten years.

9. The provisions of this section shall not in any way affect or limit the powers granted to any county to establish, maintain, and conduct parks and other recreational grounds for public recreation.

10. Except as modified in this section, the provisions of section 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide funding for necessary infrastructure, the enactment of section 94.838 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 94.838 of section A of this act shall be in full force and effect upon its passage and approval.

Approved May 24, 2005

HB 209 [SS SCS HCS HB 209]

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 simplified municipal telecommunications business license tax and establishes the State Highway Utility Relocation Act

AN ACT to amend chapters 71, 92, and 227, RSMo, by adding thereto eighteen new sections relating to assessment and collection of various taxes on telecommunications companies, with an effective date for certain sections.

SECTION

A. Enacting clause.
71.675. No class action suits permitted for enforcement or collection of business license taxes imposed on telecommunications companies.
92.074. Title of law.
92.077. Definitions.
92.080. Municipalities prohibited from imposing certain taxes on telecommunications companies.
92.083. Terms used in ordinances to have statutory meaning, when — existing ordinances not repealed.
92.086. List of municipalities with business license tax ordinances to be published — revenue director to collect tax, when — basis for tax — rulemaking authority — intent of general assembly — review of revenue collected — audit authority.
92.089. Findings of general assembly — immunity for telecommunications companies, when.
92.092. Nonseverability clause.
92.098. Severability clause.
227.241. Title of law — redesign of certain projects not required.
227.242. Definitions.
227.243. Utility facilities located in right-of-way, survey required — notification requirements.
227.244. Project plans to be provided to owners of utility facilities, content — preliminary plan of adjustment, contents — utility coordination meeting required, when.
227.245. Relocation plan, contents — review of plan — meeting for coordination of work required — notification of approval of plan.
227.246. Revised project plan required, when.
227.247. Method of providing notice, responses, and plans — notice of excavation required.
227.248. Damages for failure to respond or correct project plans or failure to relocate — exceptions — removal and relocation at expense of owner.
227.249. Ordinances, policies, resolutions, or regulations permitted (St. Charles).
B. Effective date.

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

SECTION A. ENACTING CLAUSE. — Chapters 71, 92, and 227, RSMo, are amended by adding thereto eighteen new sections, to be known as sections 71.675, 92.074, 92.077, 92.080, 92.083, 92.086, 92.089, 92.092, 92.098, 227.241, 227.242, 227.243, 227.244, 227.245, 227.246, 227.247, 227.248, and 227.249, to read as follows:

71.675. NO CLASS ACTION SUITS PERMITTED FOR ENFORCEMENT OR COLLECTION OF BUSINESS LICENSE TAXES IMPOSED ON TELECOMMUNICATIONS COMPANIES. — 1. Notwithstanding any other provision of law to the contrary, no city or town shall bring any action in federal or state court in this state as a representative member of a class to enforce or collect any business license tax imposed on a telecommunications company. A city or town may, individually or as a single plaintiff in a multiple-plaintiff lawsuit, bring an action in federal or state court in this state to enforce or collect any business license tax imposed on a telecommunications company.

2. Nothing in this section shall be construed to preclude any taxpayer from initiating an action in federal or state court as a representative member of a class seeking injunctive relief against the Missouri department of revenue to enforce the imposition, assessment, or collection of the business license tax provided under sections 92.074 to 92.098, RSMo.

92.074. TITLE OF LAW. — Sections 92.074 to 92.098 shall be known as the "Municipal Telecommunications Business License Tax Simplification Act".

92.077. DEFINITIONS. — As used in sections 92.074 to 92.098, unless the context clearly requires otherwise, the following terms mean:

(1) "Business license tax", any tax, including any fee, charge, or assessment in the nature of a tax, assessed by a municipality on a telecommunications company for the privilege of doing business within the borders of such municipality, and specifically includes any tax assessed on a telecommunications company by a municipality under section 66.300, RSMo, and section 80.090, RSMo, section 92.073, section 94.110, 94.270, or 94.360, RSMo, or under authority granted in its charter, as well as an occupation license tax, gross receipts tax, franchise tax, or similar tax, but shall not include:

(a) Any state or municipal sales tax imposed under sections 144.010 to 144.525, RSMo; or

(b) Any municipal right-of-way usage fee imposed under the authority of a municipality's police powers under Section 253(c) of the Federal Telecommunications Act of 1996, or under sections 67.1830 to 67.1846, RSMo; or

(c) Any tax or fee levied for emergency services under section 190.292, 190.305, 190.325, 190.335, or 190.430, RSMo, or any tax authorized by the general assembly after August 28, 2005, for emergency services;

(d) Any flat tax duly imposed on or before August 28, 2005;

(2) "Director", the director of the department of revenue;

(3) "Municipal", of or relating to a municipality;

(4) "Municipality", any city, county, town, or village in Missouri entitled by authority of section 66.300, RSMo, section 80.090, RSMo, section 92.073, section 94.110, 94.270, or 94.360, RSMo, or under authority granted in its charter to assess a business license tax on telecommunications companies;

(5) "Telecommunications company", any company doing business in this state that provides telecommunications service;

(6) "Telecommunications service", the same meaning as such term is defined in section 144.010, RSMo. The term telephone company, as used in sections 94.110, 94.270, and 94.360, RSMo, shall have the same meaning as telecommunications company as defined in this section.

92.080. MUNICIPALITIES PROHIBITED FROM IMPOSING CERTAIN TAXES ON TELECOMMUNICATIONS COMPANIES. — Notwithstanding any provisions of this chapter or chapter 66, 80, or 94, RSMo, or the provisions of any municipal charter, after August 28, 2005, no municipality may impose any business license tax, tower tax, or antennae tax on a telecommunications company except as specified in sections 92.074 to 92.098.

92.083. TERMS USED IN ORDINANCES TO HAVE STATUTORY MEANING, WHEN — EXISTING ORDINANCES NOT REPEALED. — 1. On or after July 1, 2006, if any city, county, village, or town has imposed a business license tax on a telecommunications company, as authorized in this chapter, or chapter 66, 80, or 94, RSMo, or under the authority granted in its charter, the terms used in such ordinance shall be construed, for the purposes of section 92.074 to 92.098, to have the meanings set forth in this section, regardless of any contrary definition in the ordinance:

(1) "Gross receipts" means all receipts from the retail sale of telecommunications service taxable under section 144.020, RSMo, and from any retail customer now or hereafter exempt from the state sales tax;

(2) "Telephone service", "telecommunications service", "telecommunications", "local exchange service", "local exchange telephone transmission service", "exchange telephone service" or similar terms means telecommunications service as defined in section 92.077.

2. Nothing in this section shall have the effect of repealing any existing ordinance imposing a business license tax on a telecommunications company; provided that a city with an ordinance in effect prior to August 28, 2005, complies with the provisions of section 92.086.

3. Any business license tax imposed on a telecommunications company after July 1, 2006, shall be imposed on the retail sale of telecommunications service.

92.086. LIST OF MUNICIPALITIES WITH BUSINESS LICENSE TAX ORDINANCES TO BE PUBLISHED — REVENUE DIRECTOR TO COLLECT TAX, WHEN — BASIS FOR TAX — RULEMAKING AUTHORITY — INTENT OF GENERAL ASSEMBLY — REVIEW OF REVENUE COLLECTED — AUDIT AUTHORITY. — 1. On or before January 1, 2006, the director shall publish a list of the municipalities which have, prior to August 28, 2005, enacted ordinances imposing a business license tax on a telecommunications company. The list shall contain:

(1) The name of the municipality imposing the tax;

(2) The name of the tax as denoted by the municipality;

(3) The citation to the municipal code provisions imposing the tax; and

(4) The percentage of gross receipts.

The director shall not be required to include any figures for the percentage of gross receipts if the municipality in question at the time of August 28, 2005, had an ordinance which imposed a flat fee instead of a fee based on gross receipts as its business license tax. In compiling the list, the director shall collect information from telecommunications companies, municipalities, municipal codes, and other reliable sources.

2. (1) On or before February 1, 2006, all telecommunications companies in Missouri shall provide the director and the state auditor with the amount of municipal business license tax which they paid each Missouri municipality identified by the director in accordance with subsection 1 of this section for the previous four quarters. On or before February 1, 2006, all telecommunications companies in Missouri shall provide the director and the state auditor with an itemized list establishing their gross receipts for the previous four quarters for each category of gross receipts in each municipality identified by the director in accordance with subsection 1 of this section upon which a sales tax is paid;

(2) On or before February 1, 2006, each municipality shall provide the director and state auditor with the total amount of tax revenue collected for the previous fiscal year of taxable gross receipts from telecommunications companies. Any inconsistency or dispute arising from the information provided by the municipalities and telecommunications companies shall be resolved through an audit performed by the state auditor.

3. Beginning on July 1, 2006, the director shall henceforth collect, administer, and distribute telecommunications business license tax revenues in accordance with the provisions of sections 92.074 to 92.098.

4. Notwithstanding the provisions of any municipal business license tax ordinance, effective July 1, 2006, all business license taxes shall be based solely and exclusively on those gross receipts of telecommunications companies for the retail sale of telecommunications services which are subject to taxation under sections 144.010 and 144.020, RSMo. Any provisions in any municipal taxing ordinances which provide different definitions, rules, or provisions are expressly preempted and are null and void.

5. The director is authorized to promulgate regulations to establish the appropriate procedures for collecting, administering, and distributing such taxes. A telecommunications company shall file a quarterly return with the director with an attached schedule setting forth the total amount of taxable gross receipts for the quarter and the amount of business license tax due to each municipality. The director shall distribute the appropriate amounts, as set forth in this section, to the municipalities. In exchange for its collection, administration, and distribution functions, the department of revenue shall retain a collection fee of up to one percent (not to exceed the actual costs incurred) on all funds collected and distributed and shall be allowed to collect the interest off such funds during the time between collection and distribution. In no event shall the director fail to distribute the collected funds to a municipality more than thirty days after the collection of the funds.

6. It is the intent of the general assembly that sections 92.074 to 92.098 comply with Article X, Section 22 of the Missouri Constitution, so that the application of sections 92.074 to 92.098 shall have a revenue-neutral effect. Because business license taxes shall now be based on the gross receipts subject to the sales tax, it is anticipated that the base of the existing business license taxes in most cases shall be broadened, so in order to comply with Article X, Section 22 of the Missouri Constitution, the municipality shall adjust the gross receipts percentage rate identified by the director in accordance with subsection 2 of this section so that the amount collectable, in total from all telecommunications companies, excluding the collection fee authorized in subsection 5 as defined herein, before and immediately after enactment remains the same in each municipality. If the determination is made by a municipality that in order to comply with article X, section 22 of the Missouri Constitution the gross receipts percentage rate must be increased, such increase shall be passed by a majority vote of the qualified voters voting in that municipality. The existing tax base shall be an amount equal to the total amount of telecommunication business license taxes collected by a municipality for fiscal year 2005, increased by fifty percent of the difference between such amount and the business license tax receipts that would have been yielded by applying the gross receipts percentage rate identified in accordance with subsection 1 of this section to the total gross receipts for all wireless telecommunications services provided by telecommunications companies as identified in 47 U.S.C. section 332(D)(1) and 47 C.F.R. Parts 22 or 24 in such fiscal year attributable to the municipality. Based upon the rate information received from the director under this section, each municipality shall, no later than April 1, 2006, promulgate and publish the revenue neutral rates to be applied in each municipality. Such tax rates shall be the applicable business license tax rate for bills rendered on or after July 1, 2006. Any percentages in any ordinance that are contrary to that established by the municipality herein are null and void. If any municipal business license tax ordinance as of January 1, 2005, had a provision stating that the tax only applied to business customers, the new calculated rate under this section also shall be determined based only on business customers and shall apply only to business customers.

7. On or before April 1, 2007, the director, in consultation with the state auditor and municipalities, shall examine revenues collected and forecast whether a shortfall or excess in municipal revenues for each municipality is likely to occur for the fiscal year ending June 30, 2007, due to data reporting errors or other errors in the calculation of the revenue neutral tax rate. Section 32.057, RSMo, shall not restrict the disclosure of

information to perform such consultation. If a shortfall or excess is expected, the director, after review and comment from municipalities and telecommunications companies, shall promulgate and publish an adjustment in the rate in such municipalities. Such tax rate adjustment, if necessary, shall apply to bills issued after July 1, 2007.

8. The director shall be notified in writing within thirty days of any change in the municipal business license tax rate adopted by a municipality. The director shall promulgate such rate changes, but such rate changes may only take effect on the first day of a calendar quarter and only after a minimum of ninety days notice from the director to a telecommunications company. Any subsequent increase in the business license tax rate passed through an ordinance by a municipality which is above that rate as established by the municipality under subsection 6 of this section shall be passed by a majority vote of the qualified voters voting in that municipality. No municipal tax rate shall exceed the cap provided in subsection 9 of this section.

9. Notwithstanding the provisions of subsections 3 to 8 of this section or any other provision of law to the contrary, for any municipality not subject to the provisions of subsection 10 of this section, the maximum rate of taxation on gross receipts shall not exceed five percent for bills rendered on or after July 1, 2006, except if the business license tax rate for any municipality, as calculated in subsection 6 of this section, or if necessary, subsection 7 of this section, is determined to be greater than five percent, then, notwithstanding the provisions of such subsections, the business license tax rates for such municipality on and after July 1, 2006, shall be as follows:

(1) For bills rendered between July 1, 2006, and June 30, 2008, the rate shall be the actual adjusted rate as determined by subsection 6 or this section, or, if necessary, subsection 7 of this section;

(2) For bills rendered between July 1, 2008, and June 30, 2010, the rate shall be half the sum of the rate determined in subdivision (1) of this subsection and five percent; and

(3) For all bills rendered on and after July 1, 2010, five percent.

10. (1) Any municipality which prior to November 4, 1980, had an ordinance imposing a business license tax on telecommunications companies which specifically included the words "wireless", "cell phones", or "mobile phones" in its business license tax ordinance as revenues upon which a business license tax could be imposed, and had not limited its tax to local exchange telephone service or landlines, and had taken affirmative action to collect such tax from wireless telecommunications providers prior to January 15, 2005, shall not be required to adjust its business license tax rate as provided in subsection 6 of this section and shall not be subject to the provisions of subsection 9 of this section.

(2) Any municipality which has an ordinance or an amendment to an ordinance imposing a business license tax on telecommunications companies which was authorized or amended by a public vote subsequent to November 4, 1980, and such authorization specifically included the terms "wireless", "cell phones", or "mobile telephones" as revenues upon which a business license tax could be imposed, and had not limited its tax to local exchange telephone service or landlines, and had taken affirmative action to collect such tax from wireless telecommunications providers prior to January 15, 2005, shall not be required to adjust its business license tax rate as provided in subsection 6 of this section and shall not be subject to the provisions of subsection 9 of this section.

11. For purposes of sections 92.074 to 92.098, the director and any municipality shall have the authority to audit any telecommunications company. Notwithstanding the provisions of section 32.057, RSMo, the director of revenue shall furnish any municipality with information it requests to permit the municipality to review and audit the payments of any telecommunications company.

12. The statute of limitations shall be three years for the alleged nonpayment or underpayment of the business license tax.

13. Any telecommunications company is authorized to pass through to its retail customers all or part of the business license tax.

14. The provisions of subsection 5 of section 144.190, RSMo, and subdivision (3) of subsection 12 of section 32.087, RSMo, shall apply to the tax imposed under sections 92.074 to 92.098.

15. Unless specifically stated otherwise in sections 92.074 to 92.098, taxpayer remedies, enforcement mechanisms, tax refunds, tax protests, assessments, and all other procedures shall be the same as those provided in chapter 144, RSMo.

16. 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 the effective date of this section, shall be invalid and void.

92.089. FINDINGS OF GENERAL ASSEMBLY — IMMUNITY FOR TELECOMMUNICATIONS COMPANIES, WHEN. — 1. The general assembly finds and declares it to be the policy of the state of Missouri that costly litigation which have or may be filed by Missouri municipalities against telecommunications companies, concerning the application of certain business license taxes to certain telecommunications companies, and to certain revenues of those telecommunications companies, as set forth below, is detrimental to the economic well being of the state, and the claims of the municipal governments regarding such business licenses have neither been determined to be valid nor liquidated. The general assembly further finds and declares that the resolution of such uncertain litigation, the uniformity, and the administrative convenience and cost savings to municipalities resulting from, and the revenues which will or may accrue to municipalities in the future as a result of the enactment of sections 92.074 to 92.098 are full and adequate consideration to municipalities, as the term "consideration" is used in Article III, Section 39(5) of the Missouri Constitution, for the immunity and dismissal of lawsuits outlined in subsection 2 of this section.

2. In the event any telecommunications company, prior to July 1, 2006, failed to pay any amount to a municipality based on a subjective good faith belief that either:

(1) It was not a telephone company covered by the municipal business license tax ordinance, or the statute authorizing the enactment of such taxing ordinance, or did not provide telephone service as stated in the business license tax ordinance, and therefore owed no business license tax to the municipality; or

(2) That certain categories of its revenues did not qualify under the definition or wording of the ordinance as gross receipts or revenues upon which business license taxes should be calculated;

such a telecommunications company is entitled to full immunity from, and shall not be liable to a municipality for, the payment of the disputed amounts of business license taxes, up to and including July 1, 2006. However, such immunity and release from liability shall not apply to any business license tax imposed in accordance with subdivisions (1) and (2) of subsection 10 of section 92.086 or sections 92.074 to 92.098 after July 1, 2006. If any municipality, prior to July 1, 2006, has brought litigation or caused an audit of back taxes for the nonpayment by a telecommunications company of municipal business license taxes, it shall immediately dismiss such lawsuit without prejudice and shall cease and desist from continuing any audit, except those cities described in subsection 10 of section 92.086.

92.092. NONSEVERABILITY CLAUSE. — All provisions of sections 92.074 to 92.089 are so essentially and inseparably connected with, and so dependent upon, each other that no

such provision would be enacted without all others. If a court of competent jurisdiction enters a final judgment on the merits that is not subject to appeal and that declares any provision or part of sections 92.974 to 92.089 unconstitutional or unenforceable then sections 92.074 to 92.089, in their collective entirety, are invalid and shall have no legal effect as of the date of such judgment. In such event, both telecommunications companies and municipalities shall have the same rights as existed before the enactment of sections 92.074 to 92.089, but shall not be entitled to reimbursement, or required to pay reimbursement, for any sums paid in the good faith belief in the validity and constitutionality of sections 92.074 to 92.089.

92.098. SEVERABILITY CLAUSE. — The provisions of section 71.675, RSMo, are severable from the provisions of sections 92.074 to 92.092. If any portion of sections 92.074 to 92.092 is declared unconstitutional or the application of any part of sections 92.074 to 92.092 to any person or circumstance is held invalid, section 71.675, RSMo, and its applicability to any person or circumstance shall remain valid and enforceable. If any portion of section 71.675, RSMo, is declared unconstitutional or the application of any part of section 71.675, RSMo, to any person or circumstance is held invalid, sections 92.074 to 92.092 and its applicability to any person or circumstance shall remain valid and enforceable.

227.241. TITLE OF LAW — REDESIGN OF CERTAIN PROJECTS NOT REQUIRED. — Sections 227.241 to 227.249 shall be known as the "State Highway Utility Relocation Act". The commission shall not be required to redesign any project plans or mail additional notices, nor shall the owner of a utility facility be required to submit additional relocation plans or otherwise comply with requirements of sections 227.241 to 227.249 for any construction project on a state highway for which the letting date was prior to December 31, 2005.

227.242. DEFINITIONS. — As used in sections 227.241 to 227.249, the following terms shall mean:

(1) "Act of God", an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) "Commission," the highways and transportation commission created under section 226.020, RSMo, and article IV, section 29 of the Missouri Constitution, the director, or designees of the director for the purpose of sections 227.240 to 227.248;

(3) "Construction project", all contracts for construction of state highways let under section 227.100, except for contracts for maintenance or resurfacing determined by the commission not to conflict with public utilities and routine maintenance and repairs completed by employees of the commission. This term shall also include state highway construction projects of transportation development districts and corporations under chapter 238, RSMo, if such projects are awarded pursuant to section 227.100. The term "construction project" shall not include projects for road beautification, road irrigation, and drainage projects, culvert installation or repair, sound wall installation, decorative lighting, landscaping, or other projects not directly related to improving or routing highway traffic. The term "construction project" shall also not include any project authorized by the commission to accommodate any private development, including a shopping mall, stadium, office building, or arena;

(4) "Contractor", any person entering into a contract with the highway and transportation commission for purposes of completing a construction project on a state highway, including a subcontractor or supplier to such contractor;

(5) "Customer delays", delays in the relocation work due to delays caused by the utility's customers, including but not limited to delays in getting written or oral approvals from customers for permissible utility service cut-over dates;

(6) "Cut-over date", the date utility owner interrupts utility service to a utility customer provided through an existing utility facility and switches the service over to a new utility facility serving the customer;

(7) "Day" or "days", a business day or a period of consecutive business days consisting of every work day excluding Saturdays, Sundays, and legal holidays;

(8) "Director", the director of the Missouri department of transportation appointed pursuant to section 226.040;

(9) "Extreme weather event", a severe weather occurrence, including but not limited to fire, flood, earthquake, tornado, wind, hurricane, storm, ice, abnormal rainfall, blizzard, or extended periods of severe inclement weather;

(10) "Letting date", the date established by the commission for the acceptance of bids by contractors under section 227.100;

(11) "Mail", a dated written transmittal sent to the addressee by regular or certified mail;

(12) "Maintenance", routine work performed on state highways by employees of the commission or contractors to the commission, including minor pavement and shoulder repairs, striping, grading, irrigation ditch clearing, street overlays, and other work determined by the commission not to conflict with public utilities;

(13) "Notice to proceed", notice by the commission to a contractor to proceed with work on a contract awarded by the commission;

(14) "Owner", the individual, firm, joint venture, partnership, corporation, association, cooperative, municipality, county, district, political subdivision, department, agency, or any other institution owning or operating utility facilities;

(15) "Project plans", any plan for highway construction projects demonstrating the need to design and conduct utility facility alterations or relocations due to the work;

(16) "Relocate" or "relocation", the adjustment of utility facilities, as the commission or director may determine is necessary in connection with the construction of a state highway. Relocation includes:

(a) Removing and reinstalling the utility facility, including necessary temporary facilities;

(b) Moving, rearranging, or changing the type of existing utility facilities; and

(c) Taking any necessary safety and protective measures;

(17) "Relocation plan," a plan designed by the owner to carry out utility facility relocation work to accommodate a construction project on a state highway;

(18) "Resurfacing", work which provides a new roadway surface for existing pavement on a state highway, including minor base patching, intersection paving, shoulder work, and guard rail work which is determined by the commission not to conflict with public utilities;

(19) "State highway", a highway constructed or maintained at the cost of the state or constructed with the aid of state funds or United States government funds or any highway included by authority of law in the state highway system or any highway constructed under the authority of a transportation development district or corporation under chapter 238, RSMo, where such contract is awarded under section 227.100;

(20) "Utility contractor", a person contracting with an owner of a utility facility or a subcontractor to a person contracting with an owner of a utility facility, for the alteration relocation or installation of a utility facility in connection with a construction project on a state highway;

(21) "Utility facility", any underground facility as defined in section 319.015, RSMo, and aboveground facilities, including poles, lines, wires, and appurtenances for the

purposes of electrical power, telephone, telegraph, fiber optic and cable television services, and any other purpose or which aboveground utility facilities may be located along state highways;

(22) "Work", construction and services required of the contractor by the contractor's contract with the commission, including excavation as that term is defined in section 319.015, RSMo.

227.243. UTILITY FACILITIES LOCATED IN RIGHT-OF-WAY, SURVEY REQUIRED — NOTIFICATION REQUIREMENTS. — 1. At the earliest possible date in the design of a construction project on a state highway, the commission shall attempt to determine what utility facilities are located within the right-of-way of the planned construction project by researching permit files and reviewing map files maintained by the commission. The commission shall also, as necessary, conduct field investigations and contact local governments to identify any utility facilities within the right-of-way.

2. Within thirty days of completion of the survey conducted under subsection 1 of this section, the commission shall notify in writing owners of each known utility facility that a construction project is planned that may conflict with their utility facility. The notification shall include the name or route number of the highway, the geographical limits of the planned construction protect, a general description of the work to be done including a preliminary plan, the desired date for completion of a relocation plan, and the anticipated month and year a letting date could be set for the construction project.

3. The owner shall examine the notice and notify the commission in writing of any utility facility not correctly described in the commission's notice. Within sixty days of receiving the notice required in subsection 2 of this section, the owner shall provide a written response to the commission. The response shall describe and provide the general location of each utility facility of the owner by confirming the location shown in the commission's notice or by providing additions or corrections.

227.244. PROJECT PLANS TO BE PROVIDED TO OWNERS OF UTILITY FACILITIES, CONTENT — PRELIMINARY PLAN OF ADJUSTMENT, CONTENTS — UTILITY COORDINATION MEETING REQUIRED, WHEN. — 1. Upon completion of the initial design of the construction project, the commission shall provide at least one set of project plans to each owner of a utility facility identified under section 227.243.

2. The project plans shall show those portions of the construction project upon which the owner's utility facilities are located and where the utility facilities of other owners are located in relation to work required for the project. The commission shall also provide with the project plans a description of any right-of-way still to be purchased and the anticipated letting date of the project. The project plan shall be accompanied by a complete set of plans including profile, cross-section, drainage, signal, lighting, signing plans, temporary road plans that may affect utilities, and other pertinent plan sheets. Upon request of the owner, the commission shall provide any additional plan information needed by the owner to design and lay out the removal, relocation, or adjustment of existing facilities and the placement of relocated or new utility facilities within the limits of the construction project.

3. Within thirty days of receipt of the project plans, the utility owner shall develop a preliminary plan of adjustment and return the marked-up project plans to the commission. The plan of adjustment shall include:

(1) Verification that all utility facilities are shown;

(2) The proposed location of adjusted utility facilities;

(3) Any additional right-of-way requirements; and

(4) Any other concerns.

4. When two or more owners have facilities in the area encompassed by the construction project, the commission shall schedule a utility coordination meeting as soon as possible but no longer than thirty days from the date the project plans were mailed. The commission's project manager and all owners are required to attend this meeting. If there is a conflict between two owners which cannot be satisfactorily resolved by the owners, the commission shall determine the most appropriate method to resolve the conflict between the two owners, and, in making such determination, shall weigh equally the length of time necessitated by each owner's proposal, and the relative cost to each owner if the other's proposal is adopted. The commission shall notify all utility owners involved with the project in writing of the commission's acceptance or revisions to the utility plan of adjustment.

227.245. RELOCATION PLAN, CONTENTS — REVIEW OF PLAN — MEETING FOR COORDINATION OF WORK REQUIRED — NOTIFICATION OF APPROVAL OF PLAN. — 1. Within one hundred twenty days of receiving written notice of approval of the utility plan of adjustment from the commission, the owner shall provide the commission with a relocation plan. The one hundred twenty-day clock stops after the relocation plan is submitted by the owner. If, after timely submission of the relocation plan by the owner, revisions or alterations are necessary for any reason, or if the original relocation plan was incomplete due to information needed from other parties, the one hundred twenty-day clock begins to run again when the needed information is received back by the owner.

2. The relocation plan shall include a narrative description of work that will be done in relocating the owner's utility facilities and whether the work or a portion of the work must be coordinated with or is contingent upon work being performed by another utility facility owner or the contractor to the commission. The relocation plan shall list, if applicable, any anticipated issues or problems related to the acquisition of right-of-way. The relocation plan shall, if applicable, detail the anticipated number of days to acquire additional easements not provided within the new highway right-of-way. The relocation plan shall also give estimates as to the time needed to obtain any necessary customer approvals for cut-over dates, if necessary. The relocation plan shall state when the work will be started and the length of time in days estimated to complete the work. It is permissible for an owner to state in a relocation plan that the owner's work will be completed within a stated number of days from the date that a contractor or another owner completes certain identified work which interferes with the owner's work. The relocation plan shall identify any contingencies, if applicable, that may impact the anticipated start of relocation. The relocation plan shall also describe whether the plan is incomplete due to:

(1) Other owners failing to coordinate their plans with the owner submitting the plan;

(2) Other owners failing to provide information necessary to submit a complete relocation plan;

(3) The commission failing to provide any information required by subsection 2 of section 227.244; or

(4) Any other reason explained in the plan regarding the circumstances and cause of the plan being incomplete.

3. The commission shall review the relocation plan to ensure compatibility with permit requirements, the project plan, and the anticipated letting date and notice to proceed for the project. If utility relocation is dependent upon or must be coordinated with work to be completed by the contractor, the relocation plan shall assure timely completion of the project. If the relocation plan is acceptable to the commission, the commission shall notify the owner in writing within thirty days of receiving the plan. If the relocation plan submitted by the owner is not compatible, reasonable, or does not

allow timely completion of the project, the commission shall advise the owner in writing as soon as practicable, but not later than thirty days after receiving the relocation plan. The commission shall specify in the notice which parts of the relocation plan it finds objectionable, and the reasons for its conclusions. The owner shall submit a revised relocation plan within thirty calendar days after receipt of notice by the commission that the relocation plan is not acceptable. The commission shall review the revised relocation plan, and if the relocation plan is still not acceptable, the commission shall provide a relocation plan to the owner. The owner shall not be bound by the terms of the commission's relocation plan if such relocation plan:

(1) Requires the payment of overtime to employees to expedite the construction project; or

(2) Requires the owner to comply with a deadline which is not feasible due, in whole or in part, to one or more factors outside the control of the owner.

4. If the owner informs the commission, in writing, or the commission determines that the owner's relocation work is dependent upon or must be coordinated with work being performed by the commission's contractor, the commission shall convene a meeting of the contractor and the one or more owners whose relocation work is dependent upon or must be coordinated with the contractor's work. Such meeting shall be held after the letting date at which bids were received for the construction project, but prior to the issuance of a notice to proceed to the commission's contractor. After such meeting, and before or concurrent with the issuance of a notice to proceed, the commission shall provide a schedule for the relocation of utilities to the owner and the commission's contractor. If the approved relocation plan, or a portion of such plan, is dependent upon or must be coordinated with work to be performed by the contractor, the contractor shall notify the commission of its best estimate of the date that all construction necessary for the relocation of utilities will be completed, at least fourteen days prior to such date. If such completion date is delayed due to weather or other causes, the contractor shall immediately notify the commission of the delay and the revised expected completion date. The contractor shall give a second notice to the commission five days prior to the date work will be completed as necessary for relocation work to begin. It shall be the responsibility of the commission to notify the owner or owners of the contractor's estimated completion dates. The contractor may also notify the owner directly of such dates, if the contractor has received information from the owner under subsection 7 of this section, but such notice shall not relieve the commission of its obligation to notify the owner. If the contractor's delay causes additional delay by the owner, the commission and the owner shall negotiate in good faith to determine the new completion date.

5. (1) The commission shall notify the owner in writing not less than thirty days before the owner is required to begin relocation provided for in the approved relocation plan. Unless the owner has encountered excusable delay as set forth in subsection 4 of section 227.248, the owner shall complete its work within the time frame described in the relocation plan, and shall complete all work that can be done prior to construction before the issuance of the notice to proceed, including work that may need to be coordinated with other utility owners but is not dependent on the work of the contractor.

(2) The notice required by subdivision (1) of this subsection shall include the name, address, telephone number, facsimile number, and electronic mail address of the commission's contractor and any subcontractors performing work on the construction project. Such information shall also include the name and title of an individual employed by the contractor or subcontractor having primary responsibility for the construction project. Within fifteen days of receiving notice, the owner shall provide to the commission and the commission's contractor the name, address, telephone number, facsimile number, and electronic mail address of the employee of the owner who is responsible for implementation of the owner's relocation plan and the same information for any utility contractor to the owner for purposes of carrying out the relocation plan.

6. The owner shall notify the commission when relocation work has started. During the course of the relocation work, the commission may require owners to provide progress reports until its relocation is completed. The owner shall notify the commission when all relocation work is complete. All notices of either starting or completion of relocation work and all monthly progress reports shall be provided within five days after such dates.

227.246. REVISED PROJECT PLAN REQUIRED, WHEN. — 1. If, prior to the letting date of the construction project, the commission's project plan is changed so that additional or different utility relocation work is found necessary, the commission shall furnish a revised project plan under section 227.244, and the owner shall provide the commission with a revised relocation plan under section 227.245, except that the time allowed for the owner to submit the revised relocation plan after receipt of the revised project plan shall not exceed sixty days.

2. If, after the letting date of the highway construction project, additional utility relocation work is found necessary which was not indicated on the original project plan, the commission shall provide the owner with a revised project plan within fifteen days and the commission and the owner shall agree on a reasonable schedule for completion of the additional utility location.

227.247. METHOD OF PROVIDING NOTICES, RESPONSES, AND PLANS — NOTICE OF EXCAVATION REQUIRED. — 1. The commission shall have authority to require that any required notice, response, or plan be submitted by mail or certified mail. Otherwise notices, plans, and other statements in writing may be provided by mail, facsimile, or electronic mail. The commission may require that some form of proof of receipt be provided in regard to any notice, plan, or other statement in writing. Upon mutual agreement between the commission and an owner, additional time may be granted for the completion of any act required by sections 227.241 to 227.249.

2. Nothing in sections 227.241 to 227.249 shall be construed to relieve a contractor from making notice of excavation as required by sections 319.010 to 319.050, RSMo, of the underground facility safety and damage prevention act, or complying with the requirements of sections 319.075 to 319.090, RSMo, of the overhead powerline safety act, except to the extent that any provisions of sections 227.241 to 227.249 require additional obligations beyond those set forth in sections 319.011 to 319.050, RSMo, or sections 319.075 to 319.090, RSMo, in which case the requirements of sections 227.241 to 227.249 shall prevail.

227.248. DAMAGES FOR FAILURE TO RESPOND OR CORRECT PROJECT PLANS OR FAILURE TO RELOCATE — EXCEPTIONS — REMOVAL AND RELOCATION AT EXPENSE OF OWNER. — 1. If the owner of a utility facility fails to provide the responses or corrections to project plans required by sections 227.243 to 227.246, the commission may recover from the owner damages in the amount of up to one hundred dollars per day for each day the required act is not completed.

2. If the owner fails to provide a relocation plan or fails to timely relocate utility facilities in accordance with the relocation plan as required by section 227.245, the commission may recover from the owner damages in the amount of up to one thousand dollars per day for each day the required act is not completed.

3. The damages authorized by subsections 1 and 2 of this section may be recovered through actions brought by the chief counsel to the commission, or may be referred to the attorney general for appropriate action. An action to collect the damages authorized by this section shall be brought in a court of appropriate jurisdiction. All damages collected under this section shall be deposited in the state road fund.

4. No damages or fines of any kind shall be assessed for delays that result, in whole or in part, directly or indirectly, from any of the following:

(1) Customer delays;

(2) Labor strikes or shortages;

(3) Terrorist attacks, riots, civil unrest, or criminal sabotage;

(4) Acts of God, or extreme weather events;

(5) Delays caused by staffing shortages in the geographic area near the commission's construction project due to the owner's need to reassign an unusual number of workers to any other area to respond to an act of God or extreme weather event;

(6) The failure of another owner to sufficiently complete its required relocation of utility facilities that interfere with an owner's relocation plan;

(7) The failure of another owner or delay by another owner in submitting relocation plans that interfere with an owner's relocation plan;

(8) Delays by the commission in acquiring necessary right-of-way or necessary easements;

(9) Delays caused by facility damages or cable cuts caused by the commission's contractor, other owners, or third parties;

(10) Unusual material shortages; and

(11) Any other event or action beyond the reasonable control of the owner.

The occurrence of any of the unusual events listed in this section shall constitute an affirmative defense to the assessment of damages under the provisions of this section.

5. The removal and relocation of utility facilities shall be made at the expense of the owners unless otherwise provided by the commission. If the owner fails to relocate the utility facilities in accordance with the relocation plan as required by section 227.245, the utility facilities may be removed and relocated by the state highways and transportation commission, or under its direction, and the cost of relocating the utility facilities shall be collected from such owner. If the state highways and transportation commission or its designee removes and relocates the utility facilities, the utility owner shall not be liable to any party for any damages caused by the commission's or the commission's designee's removal and relocation of such facilities.

227.249. ORDINANCES, POLICIES, RESOLUTIONS, OR REGULATIONS PERMITTED (ST. CHARLES). — Any home rule city having a population of sixty thousand inhabitants or greater or any charter county of the first classification may adopt ordinances, policies, resolutions, or regulations consistent with sections 227.241 to 227.249 regarding the relocation of utility facilities located within the right-of-way of streets, highways, or roads under their respective jurisdiction, which are not state highways. Any ordinance, policy, resolution, or regulation adopted under the authority of this section shall not infringe upon, negate or otherwise abrogate an owner's right to construct, own, operate, and maintain utility facilities within the right-of-ways of such political subdivision that the owner otherwise enjoyed prior to the adoption of such ordinance, policy, resolution, or regulation.

SECTION B. EFFECTIVE DATE. — The provisions of sections 227.241 to 227.249 shall become effective January 1, 2006.

Approved July 14, 2005

HB 215 [HCS HB 215]

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

Permits the City of Warrensburg to annex areas along a road or highway within 2.5 miles from the existing city boundary

AN ACT to repeal section 67.1350, RSMo, and to enact in lieu thereof one new section relating to annexation procedures for cities and towns.

SECTION
A. Enacting clause.
67.1350. Annexation by certain cities to promote economic development (Warrensburg).

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

SECTION A. ENACTING CLAUSE. — Section 67.1350, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.1350, to read as follows:

67.1350. ANNEXATION BY CERTAIN CITIES TO PROMOTE ECONOMIC DEVELOPMENT (WARRENSBURG). — Notwithstanding the provisions of any other law to the contrary, the governing body of any third class city with a population of at least fifteen thousand but not more than seventeen thousand inhabitants which is the county seat of a county of the fourth classification which has a state university located in such city may annex areas along a road or highway up to two **and one-half** miles from the existing boundaries of the city for the purpose of promoting economic development through the refurbishing of existing structures and the construction and maintenance of infrastructure and property for the enhancement of community development of an existing airport.

Approved June 22, 2005

HB 219 [HB 219]

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 Secretary of State to name a reading room in one of the buildings comprising the Missouri State Archives as the "Alex M. Petrovic Reading Room"

AN ACT to amend chapter 8, RSMo, by adding thereto one new section relating to the naming of a room at the Missouri state archives.

SECTION
A. Enacting clause.
8.910. Alex M. Petrovic Reading Room designated at a building of the Missouri State Archives.

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

SECTION A. ENACTING CLAUSE. — Chapter 8, RSMo, is amended by adding thereto one new section, to be known as section 8.910, to read as follows:

8.910. ALEX M. PETROVIC READING ROOM DESIGNATED AT A BUILDING OF THE MISSOURI STATE ARCHIVES. — The secretary of state shall designate a reading room in one of the buildings comprising the Missouri state archives as the "Alex M. Petrovic Reading Room" in honor and recognition of Missouri state representative Alex M. Petrovic who introduced House Bill No. 294 in the seventy-third general assembly which,

upon its passage and approval, established the division of records management and archives services in the secretary of state's office and created the Missouri state archives.

Approved July 6, 2005

HB 229 [SCS HB 229]

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 application procedures for the Missouri Homestead Preservation Act for the elderly and disabled

AN ACT to repeal sections 135.010 and 137.106, RSMo, and to enact in lieu thereof two new sections relating to the homestead preservation tax credit.

SECTION
A. Enacting clause.
135.010. Definitions.
137.106. Homestead preservation — definitions — homestead exemption credit received, when, application process — assessor's duties — department of revenue duties — exemption limit set, when, how applied — rulemaking authority — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Sections 135.010 and 137.106, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.010 and 137.106, to read as follows:

135.010. DEFINITIONS. — As used in sections 135.010 to 135.030 the following words and terms mean:

(1) "Claimant", a person or persons claiming a credit under sections 135.010 to 135.030. If the persons are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a property tax credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year, or the claimant or spouse is a veteran of any branch of the armed forces of the United States or this state who became one hundred percent disabled as a result of such service, or the claimant or spouse is disabled as defined in subdivision (2) of this section, and such claimant or spouse provides proof of such disability in such form and manner, and at such times, as the director of revenue may require, or if the claimant has reached the age of sixty on or before the last day of the calendar year and such claimant received surviving spouse Social Security benefits during the calendar year and the claimant provides proof, as required by the director of revenue, that the claimant received surviving spouse Social Security benefits during the calendar year for which the credit will be claimed. **A claimant shall not be allowed a property tax credit if the claimant filed a valid claim for a credit under section 137.106 in the year following the year for which the property tax credit is claimed.** The residency requirement shall be deemed to have been fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax credit if a person of the age of sixty-five years or older who would have otherwise met the requirements for a property tax credit dies before the last day of the calendar year. The residency

requirement shall also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who would have otherwise met the requirements for a property tax credit but who dies before the last day of the calendar year;

(2) "Disabled", the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A claimant shall not be required to be gainfully employed prior to such disability to qualify for a property tax credit;

(3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length, of a homestead during the calendar year, exclusive of charges for health and personal care services and food furnished as part of the rental agreement, whether or not expressly set out in the rental agreement. If the director of revenue determines that the landlord and tenant have not dealt at arm's length, and that the gross rent is excessive, then he shall determine the gross rent based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually paid prior to the date a return is filed. The director of revenue may prescribe regulations requiring a return of information by a landlord receiving rent, certifying for a calendar year the amount of gross rent received from a tenant claiming a property tax credit and shall, by regulation, provide a method for certification by the claimant of the amount of gross rent paid for any calendar year for which a claim is made. The regulations authorized by this subdivision may require a landlord or a tenant or both to provide data relating to health and personal care services and to food. Neither a landlord nor a tenant may be required to provide data relating to utilities, furniture, home furnishings or appliances;

(4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. It may consist of part of a multidwelling or multipurpose building and part of the land upon which it is built. "Owned" includes a vendee in possession under a land contract and one or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant actually in possession if he was the immediate former owner of record, if a lineal descendant is presently the owner of record, and if the claimant actually pays all taxes upon the property. It may include a mobile home;

(5) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo, less two thousand dollars as an exemption for the claimant's spouse residing at the same address, and increased, where necessary, to reflect the following:

(a) Social Security, railroad retirement, and veterans payments and benefits unless the claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one hundred percent service-connected, disabled veteran. The one hundred percent service-connected disabled veteran shall not be required to list veterans payments and benefits;

(b) The total amount of all other public and private pensions and annuities;

(c) Public relief, public assistance, and unemployment benefits received in cash, other than benefits received under this chapter;

(d) No deduction being allowed for losses not incurred in a trade or business;

(e) Interest on the obligations of the United States, any state, or any of their subdivisions and instrumentalities;

(6) "Property taxes accrued", property taxes paid, exclusive of special assessments, penalties, interest, and charges for service levied on a claimant's homestead in any calendar year. Property taxes shall qualify for the credit only if actually paid prior to the date a return is filed. The director of revenue shall require a tax receipt or other proof of property tax payment. If a homestead is owned only partially by claimant, then "property taxes accrued" is that part of property taxes levied on the homestead which was actually paid by the claimant. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of revenue for collection. If a claimant owns a homestead part of the preceding calendar year and rents it or a different homestead for part of the same year, "property taxes accrued" means only

taxes levied on the homestead both owned and occupied by the claimant, multiplied by the percentage of twelve months that such property was owned and occupied as the homestead of the claimant during the year. When a claimant owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable to those several properties occupied by the claimant as a homestead for the year. If a homestead is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part;

(7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by a claimant and spouse in the calendar year.

137.106. HOMESTEAD PRESERVATION — DEFINITIONS — HOMESTEAD EXEMPTION CREDIT RECEIVED, WHEN, APPLICATION PROCESS — ASSESSOR'S DUTIES — DEPARTMENT OF REVENUE DUTIES — EXEMPTION LIMIT SET, WHEN, HOW APPLIED — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section may be known and may be cited as "The Missouri Homestead Preservation Act".

2. As used in this section, the following terms shall mean:

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Disabled", as such term is defined in section 135.010, RSMo;

(4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to subsection 4 of this section; in the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to subsection 4 of this section did not exceed the maximum upper limit; **in the case of property held in trust, the eligible owner and recipient of the tax credit shall be the trust itself provided the previous owner of the homestead or the previous owner's spouse: is the settlor of the trust with respect to the homestead; currently resides in such homestead; and but for the transfer of such property would have satisfied the age, ownership, and maximum upper limit requirements for income as defined in subdivisions (7) and (8) of this subsection;** no individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year, **[**not including the year in which the application was completed,**]** shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person **[**qualifies**] filed a valid claim** for the senior citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value**, except where an eligible owner of the property has made such improvements to accommodate a disabled person**;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not including improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection **[**8**] 10** of this section**. For applications filed in 2005 or 2006, the**

homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005. For applications filed between April 1, 2005 and September 30, 2006, an eligible owner, who otherwise satisfied the requirements of this section, shall not apply for the homestead exemption credit more than once during such period. For applications filed after 2006, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application;

(7) "Income", federal adjusted gross income**, and in the case of ownership of the homestead by trust, the income of the settlor applicant shall be imputed to the income of the trust for purposes of determining eligibility with regards to the maximum upper limit**;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. **If application is made in 2005,** any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property; and

(4) That any improvements made to the homestead**, not made to accommodate a disabled person,** did not total more than five percent of the prior year appraised value.

The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. **If application is made in 2005,** the assessor, upon **[**receiving**] request for** an application, shall:

(1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;

(2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks **for inclusion on the form**;

(3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and

(4) Sign the application, certifying the accuracy of the assessor's entries.

6. **If application is made after 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application. Applications may be completed**

between April 1 and September 30 of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property;

(4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value; and

(5) The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the three prior tax years.

7. Each applicant shall send the application to the department by September thirtieth of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

[7.**]** **8. If application is made in 2005,** upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the tax year that ended immediately prior. Such eligible owners shall be disqualified from receiving the credit in the current tax year.

[8.**]** **9. If application is made after 2005, upon receipt of the applications, the department shall calculate the tax liability, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income is verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.**

10. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

[9.**] 11. [**If, in any given year,**] For applications made in 2005,** the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

[10.**] 12.** After setting the homestead exemption limit **for applications made in 2005**, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation **and assessment fund allocation** to the county collector's funds of each county **or the treasurer ex-officio collector's fund in counties with a township form of government** where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector **or the treasurer ex-officio collector in counties with a township form of government**, shall be deposited in the county collector's fund of a county **or the treasurer ex-officio collector's fund** or may be sent by mail to the collector of a county**, or the treasurer ex-officio collector in counties with a township form of government,** not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues **by the collector of the county or the treasurer ex-officio collector of the county in counties with a township form of government**, so as to exactly offset each homestead exemption credit being issued. **In counties with a township form of government, the county clerk shall provide the treasurer ex-officio collector a summary of the homestead exemption credit for each township for the purpose of distributing the total homestead exemption credit to each township collector in a particular county.**

[11.**] 13. If, in any given year after 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.**

14. After setting the homestead exemption limit for applications made after 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex-officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex-officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex-officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

15. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

[12.**]** **16.** In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to **[**the mailing of the tax bill**]** **January first of the year in which the credit would otherwise be applied**, the credit shall be void and any corresponding moneys, pursuant to subsection 10 of this section, shall lapse to the state to be credited to the general revenue fund. **In the event the collector of the county or the treasurer ex-officio collector of the county in counties with a township form of government determines prior to issuing the credit that the individual is not an eligible owner because the individual did not pay the prior three years' property tax liability in full, the credit shall be void and any corresponding moneys, under subsection 11 of this section, shall lapse to the state to be credited to the general revenue fund.**

[13.**]** **17.** This section shall apply to all tax years beginning on or after January 1, 2005. This subsection shall become effective June 28, 2004.

[14.**]** **18.** In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal.

Approved June 30, 2005

HB 232 [SCS HCS#2 HB 232]

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 fees health care providers can charge for copying a patient's health care record

AN ACT to repeal section 191.227, RSMo, and to enact in lieu thereof one new section relating to patient health care records.

SECTION
A. Enacting clause.
191.227. Medical records to be released to patient, when, exception — fee permitted, amount — liability of provider limited — annual handling fee adjustment.

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

SECTION A. ENACTING CLAUSE. — Section 191.227, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.227, to read as follows:

191.227. MEDICAL RECORDS TO BE RELEASED TO PATIENT, WHEN, EXCEPTION — FEE PERMITTED, AMOUNT — LIABILITY OF PROVIDER LIMITED — ANNUAL HANDLING FEE ADJUSTMENT. — 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called "providers", shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his **or her** record of that patient's health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient's condition and sound therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt of the request therefor and upon payment of a **[**handling fee of fifteen dollars plus a fee of thirty-five cents per page for copies of documents made on a standard photocopy machine**] fee as provided in this section**.

2. **Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records upon payment of a fee for:**

(1) Copying, in an amount not more than seventeen dollars and five cents plus forty cents per page for the cost of supplies and labor;

(2) Postage, to include packaging and delivery cost; and

(3) Notary fee, not to exceed two dollars, if requested.

3. Notwithstanding provisions of this section to the contrary, providers may charge for the reasonable cost of all duplications of **[**medical**] health care** record material or information which cannot routinely be copied or duplicated on a standard commercial photocopy machine.

[3.**] 4.** The transfer of the patient's record done in good faith shall not render the provider liable to the patient or any other person for any consequences which resulted or may result from disclosure of the patient's record as required by this section.

[4.**]** **5.** Effective February first of each year, the **[**handling fee and per-page fee**]** **fees** listed in subsection **[**1**]** **2** of this section shall be increased or decreased annually based on the annual percentage change in the unadjusted, U.S. city average, annual average inflation rate of the medical care component of the Consumer Price Index for All Urban Consumers (CPI-U). The current reference base of the index, as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be used as the reference base. For purposes of this subsection, the annual average inflation rate shall be based on a twelve-month calendar year beginning in January and ending in December of each preceding calendar year. The department of health and senior services shall report the annual adjustment and the adjusted **[**handling and per-page**]** fees **authorized in this section** on the department's Internet website by February first of each year.

Approved July 12, 2005

HB 236 [HB 236]

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

Designates the armory located in Pierce City, Lawrence County, as the "Lawrence A. Witt National Guard Armory"

AN ACT to amend chapter 41, RSMo, by adding thereto one new section relating to a national guard armory.

SECTION
A. Enacting clause.
41.674. Lawrence A. Witt national guard armory designated in Lawrence County.

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

SECTION A. ENACTING CLAUSE. — Chapter 41, RSMo, is amended by adding thereto one new section, to be known as section 41.674, to read as follows:

41.674. LAWRENCE A. WITT NATIONAL GUARD ARMORY DESIGNATED IN LAWRENCE COUNTY. — The active national guard armory located in or nearest to Pierce City, Lawrence County, shall be designated as the "Lawrence A. Witt" national guard armory.

Approved June 22, 2005

HB 243 [HB 243]

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 U. S. Highway 63 in Phelps County as the "Korean War Veterans Association Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial highway.

SECTION
A. Enacting clause.
227.357. Korean War Veterans Association Memorial Highway designated in Phelps County.

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 227.357, to read as follows:

227.357. KOREAN WAR VETERANS ASSOCIATION MEMORIAL HIGHWAY DESIGNATED IN PHELPS COUNTY. — The portion of U.S. Highway 63 in Phelps County from one mile north of the intersection of U.S. Highway 63 and the parallel thirty-eight degrees north latitude to one mile south of the intersection of U.S. Highway 63 and the parallel thirty-eight degrees north latitude, except where otherwise designated, shall be designated the "Korean War Veterans Association Memorial Highway". The intersection of U.S. Highway 63 and the parallel thirty-eight degrees north latitude shall be indicated as the "38th Parallel" by signs. Costs for such designations and signs shall be paid by the Korean War Veterans Association, Rolla Chapter 281.

Approved June 22, 2005

HB 248 [HB 248]

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

Allows lenders of motor vehicle time sale loans to collect a fee in advance for permitting the debtor to defer monthly loan payments

AN ACT to repeal section 365.130, RSMo, and to enact in lieu thereof one new section relating to the motor vehicle time sales law.

SECTION
A. Enacting clause.
365.130. Assignment of contract — refinance charge, computed how — extension or deferral of due dates, when.

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

SECTION A. ENACTING CLAUSE. — Section 365.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 365.130, to read as follows:

365.130. ASSIGNMENT OF CONTRACT — REFINANCE CHARGE, COMPUTED HOW — EXTENSION OR DEFERRAL OF DUE DATES, WHEN. — 1. Any person may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions and at such price as may be agreed upon between them. Filing of the assignment notice to the buyer of the assignment, and any requirement that the holder maintain dominion over the payments or the motor vehicle if repossessed shall not be necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledges, mortgages and lien claimants of the seller. Unless the buyer has notice of the assignment of his contract, payment thereunder made by the buyer to the last known holder of the contract shall be binding upon all subsequent holders.

2. The holder of a retail installment contract upon request by the buyer may agree to an amendment thereto to extend or defer the scheduled due date of all or any part of any installment or installments to renew, restate or reschedule the unpaid balance of such contract, and may collect for same a refinance charge not to exceed an amount computed as follows: If all or any part of any installment or installments is deferred for not more than two months the holder may at his election charge and collect on the amount deferred for the period deferred a refinance charge computed at a rate which will not exceed the same yield as is permitted on monthly payment contracts under subsection 1 of section 365.120; provided that the minimum deferment charge shall be one dollar. Such amendment may also include payment by the buyer of the additional cost to the holder of premiums for continuing in force any insurance coverages provided for in the contract and any additional necessary official fees. In any other extension, renewal, restatement or rescheduling of the unpaid balance, the refinance charge may be computed as follows: The sum of the unpaid balance as of the refinancing date and the cost for any insurance and other benefits incidental to the refinancing, any additional necessary official fees, and any accrued delinquency and collection charges, after deducting a refund credit as for prepayment pursuant to section 365.140, shall constitute a principal balance, the refinance charge may be computed for the term of the refinanced contract at the applicable rate for finance charges provided in subsection 1 of section 365.120 obtained by reclassifying the motor vehicle by its year model at the time of the refinancing. The provisions of this chapter relating to minimum finance charges under subsection 2 of section 365.120 and acquisition costs under the refund schedule in section 365.140 shall not apply in calculating refinance charges. The amendment to the contract must be confirmed in a writing which shall set forth the terms of the amendment and the new due dates and amounts of the installments, and shall either be delivered to the buyer or mailed to him at his address as shown on the contract. Said writing together with the original contract and any previous amendments thereto shall constitute the retail installment contract.

3. Notwithstanding any other provision of this chapter and upon request by the buyer, the holder of a retail installment contract may agree to an amendment thereto to extend or defer the scheduled due dates on such contract with an original amount of six hundred dollars or more, and provided the debtor agrees in writing, the holder may collect a fee in advance for allowing the debtor to defer monthly payments on the credit so long as the fee on each deferred period is no more than the lesser of fifty dollars or ten percent of the loan payments deferred; however, a minimum fee of twenty-five dollars is permitted. In addition, under this subsection no extensions shall be made until the first recurring monthly payment is collected on any one extension of credit, the original time price differential paid to the holder on the retail installment contract remains the same and this subsection applies only to nonprecomputed extensions of credit.

Approved June 22, 2005

HB 258 [HB 258]

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

Repeals the requirement that school districts conduct an annual census of children with disabilities up to age 21 that reside in their school district

AN ACT to repeal sections 162.695, 162.990, 162.995, 163.083, and 189.085, RSMo, and to enact in lieu thereof two new sections relating to school district census requirements.

SECTION
A. Enacting clause.
163.083. Distribution of state aid — treasurer may disregard certain requirements.
189.085. Department to keep records — applicant and recipient records confidential, exception.
162.695. Census of handicapped students required — information to be obtained.
162.990. Payment for enumerated handicapped children, annual census.
162.995. Limit on expenditures from state school moneys fund.

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

SECTION A. ENACTING CLAUSE. — Sections 162.695, 162.990, 162.995, 163.083, and 189.085, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 163.083 and 189.085, to read as follows:

163.083. DISTRIBUTION OF STATE AID — TREASURER MAY DISREGARD CERTAIN REQUIREMENTS. — When distributing the state aid authorized by the provisions of sections 162.935, 162.975, 162.980, 162.985, 162.900, **[**162.990,**]** 163.031, 163.161, RSMo, and all other moneys distributed by the state department of elementary and secondary education, the state treasurer may, in any year if requested by a school district, disregard the provision in section 30.180, RSMo, requiring the treasurer to convert the warrant requesting payment into a check or draft and wire transfer the amount to be distributed to the school district directly to the school district's designated depositary for credit to the school district's account.

189.085. DEPARTMENT TO KEEP RECORDS — APPLICANT AND RECIPIENT RECORDS CONFIDENTIAL, EXCEPTION. — The department shall develop and maintain appropriate records of services and financial transactions relating to sections 189.010 to 189.085. Disclosure of such information shall be restricted to purposes directly connected with the administration of this health services program. The center for health statistics of the department and the providers shall coordinate record systems and related programs to insure that information needed by the department for the purposes of this program shall be efficiently and economically provided. Records concerning applicants and recipients of health services shall be kept confidential, provided, however, that nothing shall prohibit the department from providing the department of elementary and secondary education access to all records maintained pursuant to this section. The department and the department of elementary and secondary education shall coordinate record systems and related programs to insure that information needed by the department for the purpose of evaluation of this program will be available. The department shall assist the department of elementary and secondary education by providing information required by the department of elementary and secondary education to discharge responsibility for the developmentally disabled and other handicapped children as provided for in **[**section 162.695, RSMo, and**]** subsection 2 of section 162.700, RSMo. The department shall have access to all records or information obtained pursuant to **[**section 162.695, RSMo, and**]** subsection 2 of section 162.700, RSMo.

[162.695. CENSUS OF HANDICAPPED STUDENTS REQUIRED — INFORMATION TO BE OBTAINED. — 1. The board of education of each school district, including school districts which are part of a special school district, shall take or cause to be taken annually a special census of handicapped and severely handicapped children under the age of twenty-one residing in the district or whose parent or guardian resides in the district. The census shall include the name of the child, the parent or guardian's name and address, the birth date and the age of the child, and the handicapping condition or conditions. Where medical or other information is available it shall be used in establishing the handicapping condition or conditions or, if such information is not available, the statement of parents or other qualified observers of the child shall be accepted for the census report pending competent medical, psychological or other recognized evaluation. The census report shall be in a format provided or approved by the state department

of elementary and secondary education and shall be forwarded annually to the division of special education at the time prescribed by the department of elementary and secondary education. If the school district is in a special school district, a copy shall also be sent to the special school district. Should a district fail to make and submit such a census in the required form, the state board of education may withhold any state aid under either sections 162.670 to 162.995 or chapter 163, RSMo, until such time as the census is received.

2. State agencies collecting or otherwise maintaining information on handicapped and severely handicapped children shall cooperate with local districts, special school districts, and the department of elementary and secondary education in making available to those respective authorities information required to meet the provisions of this act.

3. An annual review of the census report shall be made by the department of elementary and secondary education in cooperation with local and special school districts to determine the appropriateness of information requested in this report.**]**

[162.990. PAYMENT FOR ENUMERATED HANDICAPPED CHILDREN, ANNUAL CENSUS. — For each child under the age of twenty-one enumerated annually on the census of handicapped and severely handicapped children, the district shall receive one dollar.**]**

[162.995. LIMIT ON EXPENDITURES FROM STATE SCHOOL MONEYS FUND. — In no event shall any sum in excess of two hundred fifty thousand dollars be expended from the state school moneys fund to implement the provisions of sections 162.670, 162.675, 162.680, 162.685, and 162.690 and 162.695 prior to July 1, 1974.**]**

Approved July 14, 2005

HB 260 [HB 260]

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

Authorizes the Governor to convey state property located in Cole County to the Regional West Fire District in Cole County

AN ACT to authorize the conveyance of property owned by the state in Cole County to the Regional West Fire District, with an emergency clause.

SECTION

1. Conveyance of state property in Cole County to the Regional West Fire District.
B. Emergency clause.

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

SECTION 1. CONVEYANCE OF STATE PROPERTY IN COLE COUNTY TO THE REGIONAL WEST FIRE DISTRICT. — 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 Cole County to the Regional West Fire District. The property to be conveyed is more particularly described as follows:

Part of the Southwest Quarter of Section 13, Township 45 North, Range 13 West, Cole County, Missouri, more particularly described as follows:
From the southeast corner of the West Half of the Southwest Quarter of said Section 13; thence N1°10'35"E, along the Quarter Quarter Section line, 1071.37 feet to the POINT

OF BEGINNING for this description; thence S38°35'30"W, 113.29 feet; thence N51°24'30"W, 348.48 feet; thence N38°35'30"E, 250.00 feet to a point on the southerly right-of-way line of Missouri State Route 179; thence S51°24'30"E, along the southerly line of said right-of-way, 348.48 feet; thence S38°35'30"W, 136.71 feet to the point of beginning.

Containing 2.0 Acres.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because of the urgent need to provide adequate fire protection for certain citizens in the state of Missouri, 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 13, 2005

HB 261 [HB 261]

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

Creates two new retirement benefit options in the Local Government Employees' Retirement System (LAGERS)

AN ACT to repeal section 70.655, RSMo, and to enact in lieu thereof one new section relating to local government employee retirement.

SECTION

A. Enacting clause.

70.655. Retirement benefits — program to be selected by governing body — formula for computing benefits — cost-of-living factor — suspension of certain benefits, when.

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

SECTION A. ENACTING CLAUSE. — Section 70.655, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 70.655, to read as follows:

70.655. RETIREMENT BENEFITS — PROGRAM TO BE SELECTED BY GOVERNING BODY — FORMULA FOR COMPUTING BENEFITS — COST-OF-LIVING FACTOR — SUSPENSION OF CERTAIN BENEFITS, WHEN. — 1. Upon a member's retirement he **or she** shall receive an allowance for life in accordance with the applicable benefit program elected by **[**his**]** **the member's** employer, as follows:

(1) Benefit program L-1. A member with credited service covered by benefit program L-1 shall receive an allowance for life equal to one percent of **[**his**]** **the member's** final average salary multiplied by **[**his**]** **the** number of years of such credited service.

(2) Benefit program L-3. A member with credited service covered by benefit program L-3 shall receive an allowance for life equal to one and one-quarter percent of **[**his**]** **the member's** final average salary multiplied by **[**his**]** **the** number of years of such credited service.

(3) Benefit program LT-4. A member with credited service covered by benefit program LT-4 shall receive an allowance for life equal to one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-two, then such member shall receive a temporary allowance equal to one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or **[**his**] the member's** attainment of age sixty-two.

(4) Benefit program LT-5. A member with credited service covered by benefit program LT-5 shall receive an allowance for life equal to one and one-quarter percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-two, then such member shall receive a temporary allowance equal to three-quarters of one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or **[**his**] the member's** attainment of age sixty-two.

(5) Benefit program L-6. A member with credited service covered by benefit program L-6 shall receive an allowance for life equal to two percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service.

(6) Benefit program L-7. A member with credited service covered by benefit program L-7 shall receive an allowance for life equal to one and one-half percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service.

(7) Benefit program LT-8. A member with credited service covered by benefit program LT-8 shall receive an allowance for life equal to one and one-half percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-two, then such member shall receive a temporary allowance equal to one-half of one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or **[**his**] the member's** attainment of age sixty-two.

(8) Benefit program LT-4(65). A member with credited service covered by benefit program LT-4(65) shall receive an allowance for life equal to one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or **[**his**] the member's** attainment of age sixty-five.

(9) Benefit program LT-5(65). A member with credited service covered by benefit program LT-5(65) shall receive an allowance for life equal to one and one-quarter percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to three-quarters of one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the

earlier of the following events occurs: such member's death; or **[**his**] the member's** attainment of age sixty-five.

(10) Benefit program LT-8(65). A member with credited service covered by benefit program LT-8(65) shall receive an allowance for life equal to one and one-half percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to one-half of one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or **[**his**] the member's** attainment of age sixty-five.

(11) Benefit program L-9. A member with credited service covered by benefit program L-9 shall receive an allowance for life equal to one and six-tenths percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service.

(12) Benefit program LT-10(65). A member with credited service covered by benefit program LT-10(65) shall receive an allowance for life equal to one and six-tenths percent of **[**his**] the members'** final average salary multiplied by **[**his**] the** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to four-tenths of one percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or **[**his**] the member's** attainment of age sixty-five.

(13) Benefit program L-11. Benefit program L-11 may cover employment in a position only if such position is not concurrently covered by federal Social Security; in addition, if such position was previously covered by federal Social Security, benefit program L-11 may cover only employment rendered after cessation of federal Social Security coverage. A member with credited service covered by benefit program L-11 shall receive an allowance for life equal to two and one-half percent of **[**his**] the member's** final average salary multiplied by **[**his**] the** number of years of such credited service.

(14) Benefit program L-12. A member with credited service covered by benefit program L-12 shall receive an allowance for life equal to one and three-quarter percent of the member's final average salary multiplied by the number of years of such credited service.

(15) Benefit program LT-14(65). A member with credited service covered by benefit program LT-14(65) shall receive an allowance for life equal to one and three-quarter percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645, 70.650, or 70.670, then such member shall receive a temporary allowance equal to one-quarter of one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death or the member's attainment of age sixty-five.

2. If each portion of a member's credited service is not covered by the same benefit program, then **[**his**] the member's** total allowance for life shall be the total of the allowance for life determined under each applicable benefit program.

3. Each employer shall have the credited service of each of its members covered by benefit program L-1 provided for in this section unless such employer shall have elected another benefit program provided for in this section.

4. Except as otherwise provided in this subsection, each political subdivision, by majority vote of its governing body, may elect from time to time to cover its members, whose political subdivision employment is concurrently covered by federal Social Security, under one of the benefit programs provided for in this section. Each political subdivision, by majority vote of its governing body, may elect from time to time to cover its members, whose political subdivision employment is not concurrently covered by federal Social Security, under one of the benefit programs provided for in this section. The clerk or secretary of the political subdivision shall certify the election of the benefit program to the board within ten days after such vote. The effective date of the political subdivision's benefit program is the first day of the calendar month specified by such governing body, or the first day of the calendar month next following receipt by the board of the certification of election of benefit program, or the effective date of the political subdivision becoming an employer, whichever is the latest. Such election of benefit program may be changed from time to time by such vote, but not more often than biennially. If such changed benefit program provides larger allowances than the benefit program previously in effect, then such larger benefit program shall be applicable to the past and future employment with the employer by present and future employees. If such changed benefit program provides smaller allowances than the benefit program previously in effect, then such changed benefit program shall be applicable only to credited service for employment rendered from and after the effective date of such change. After August 28, 1994, political subdivisions shall not elect coverage under benefit program LT-4, benefit program LT-5, or benefit program LT-8. **After August 28, 2005, political subdivisions shall not elect coverage under benefit program L-9 or benefit program LT-10(65).**

5. Should an employer change its election of benefit program as provided in this section, the employer contributions shall be correspondingly changed effective the same date as the benefit program change.

6. The limitation on increases in an employer's contribution provided by subsection 6 of section 70.730 shall not apply to any contribution increase resulting from an employer electing a benefit program which provides larger allowances.

7. Subject to the provisions of subsections 9 and 10 of this section, for an allowance becoming effective on September 28, 1975, or later, and beginning with the October first which is at least twelve full months after the effective date of the allowance, the amount of the allowance shall be redetermined effective each October first and such redetermined amount shall be payable for the ensuing year. Subject to the limitations stated in the next sentence, such redetermined amount shall be the amount of the allowance otherwise payable multiplied by the following percent: one hundred percent, plus two percent for each full year (excluding any fraction of a year) in the period from the effective date of the allowance to the current October first. In no event shall such redetermined amount (1) be less than the amount of the allowance otherwise payable nor (2) be more than the amount of the allowance otherwise payable multiplied by the following fraction: the numerator shall be the Consumer Price Index for the month of June immediately preceding such October first (but in no event an amount less than the denominator below) and the denominator shall be the Consumer Price Index for the month of June immediately preceding the effective date of the allowance. As used herein, "Consumer Price Index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers, as determined by the United States Department of Labor and in effect January 1, 1975; provided, should such Consumer Price Index be restructured subsequent to 1974 in a manner materially changing its character, the board shall change the application of the Consumer Price Index so that as far as is practicable the 1975 intent of the use of the Consumer Price Index shall be continued. As used herein "the amount of the allowance otherwise payable" means the amount of the allowance which would be payable without regard to these provisions redetermining allowance amounts after retirement.

8. Subject to the provisions of subsections 9 and 10 of this section, for an allowance becoming effective on September 28, 1975, or later, the maximum allowance payable under the

provisions of section 70.685 shall be redetermined each October first in the same manner as an allowance is redetermined under the provisions of subsection 7 of this section.

9. (1) The system establishes reserves for the payment of future allowances to retirants and beneficiaries. Should the board determine, after consulting with the actuary, that the established reserves are more than sufficient to provide such allowances, the board may increase the annual increase rate provided for in subsections 7 and 8 of this section, as it applies to any allowance payable, but in no event shall the total of all redetermined amounts as of October first of any year be greater than one hundred four percent of the allowances which would have been payable that October first without such redeterminations; provided, as of any redetermination date the same annual increase rate shall be applied to all allowances with effective dates in the range of November first to October first of the following year. The board may extend the provisions of subsections 7 and 8 of this section to allowances which became effective before September 28, 1975; provided such an action by the board shall not increase an employer contribution rate then in effect;

(2) After August 28, 1993, the annual increase rate established by this subsection shall be a compound rate, compounded annually, and the four percent annual maximum rate shall also be a compound rate, compounded annually; provided, the use of such compounding shall not begin until October 1, 1993, and shall not affect redeterminations made prior to that date.

10. Should the board determine that the provisions of subsections 7, 8 and 9 of this section are jeopardizing the financial solvency of the system, the board shall suspend these provisions redetermining allowance amounts after retirement for such periods of time as the board deems appropriate.

Approved July 12, 2005

HB 276 [HCS HB 276]

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 laws regarding special education to comply with the federal Individuals with Disabilities Education Act (IDEA)

AN ACT to repeal sections 162.955, 162.959, and 162.961, RSMo, and to enact in lieu thereof three new sections relating to special educational services.

SECTION

A. Enacting clause.
162.955. Change in assignment, prohibited, when — child endangering self or others, court order — placement of child during interim.
162.959. Mediation of dispute available, when — agreement to be in writing — attorney not permitted, when.
162.961. Resolution conference, conducted how — waiver of review, effect — attorney, capacity — hearing before panel, members and chairman chosen, how — written report — expedited hearing — forty-five day placement.

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

SECTION A. ENACTING CLAUSE. — Sections 162.955, 162.959, and 162.961, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 162.955, 162.959, and 162.961, to read as follows:

162.955. CHANGE IN ASSIGNMENT, PROHIBITED, WHEN — CHILD ENDANGERING SELF OR OTHERS, COURT ORDER — PLACEMENT OF CHILD DURING INTERIM. — 1. Except as otherwise provided in this section, during the pendency of any administrative or judicial proceeding pursuant to sections 162.950, 162.961 and 162.963 no change in the assignment or status of a handicapped or severely handicapped child shall be made except that such change may be made with the written consent of the parent or guardian. If written consent cannot be obtained and the child is endangering himself or others, the assignment or status can be changed pursuant to court order, but without prejudice to any rights that the child and the parent or guardian may have pursuant to sections 162.670 to 162.999 or otherwise pursuant to law.

2. During the pendency of any administrative or judicial proceeding pursuant to sections 162.950, 162.961 and 162.963, to challenge a placement changed because of a disciplinary action to an interim alternative educational setting or to challenge the manifestation determination**[**, when the child is disciplined for weapons, drugs, or because the child is a danger to himself or others**] in connection with a disciplinary change of placement**, the child shall remain in the interim alternative educational setting pending the due process hearing or until expiration of the time period of the interim alternative educational setting, whichever first occurs**, unless the parent and responsible public agency agree otherwise**.

3. If during an interim alternative educational setting arranged because of a disciplinary action involving weapons, drugs, **or serious bodily injury,** or because the child is a danger to himself or others, the responsible educational agency proposes to change the child's placement after expiration of the interim placement, and the parents challenge the proposed change by requesting a due process hearing, the child shall remain in his current placement, which is the placement before the interim alternative educational setting, during pending proceedings to challenge the change. The responsible educational agency may request an expedited hearing pursuant to section 162.961, if it is believed it is dangerous for the child to remain in the current placement.

162.959. MEDIATION OF DISPUTE AVAILABLE, WHEN — AGREEMENT TO BE IN WRITING — ATTORNEY NOT PERMITTED, WHEN. — 1. As used in this section, "mediation" is the process by which a neutral mediator assists the parties in reaching a mutually acceptable voluntary and consensual agreement in the best interests of the child as to issues contained in the notice pursuant to section 162.945. The role of the mediator is to aid the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of common interest and finding points of agreement. An agreement reached by the parties shall be based on the decisions of the parties and not the decisions of the mediator. The agreement reached may resolve all or only some of the disputed issues.

2. Whenever a hearing has been requested pursuant to section 162.961, on any matter in dispute under section 162.961, and the dispute has not been finally resolved, the parties shall be offered an opportunity for mediation to resolve the dispute. **Mediation shall also be made available to parties prior to the request for a hearing.** Use of mediation shall be mutually agreed upon by both parties unless federal law provides to the contrary. The department of elementary and secondary education shall ensure that impartial mediation is provided at no cost to parents or guardians and the participating school district when requested pursuant to this section.

3. **[**No statements made by either party during the mediation pursuant to this section shall be offered or used as evidence in any hearing, review of hearing decision, or civil action.

4.**]** School districts may not use mediation to deny or delay the parents' right to a due-process hearing pursuant to section 162.961, or to deny the parents any other rights afforded pursuant to this chapter.

[5.**] 4.** Mediation conducted pursuant to this section shall be scheduled within fifteen days of selecting a mediator at a time and place mutually acceptable to all parties engaged in mediation.

[6.**]** **5.** Mediation conducted pursuant to this section shall be completed within thirty days of agreement to mediate and may be terminated by either party at any time.

[7.**]** **6.** Any mediation agreement reached pursuant to this section shall be in writing**, signed by the parties,** and delivered to all parties engaged in the mediation. **The responsible public agency or its designee shall sign the agreement. The designee identified by the responsible public agency shall have the authority to bind the agency. A local board of education, as a responsible public agency, may identify a designee with authority to bind the school district. The written agreement is a legally binding agreement that sets forth the resolution and must state that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.**

[8.**]** **7.** Mediators shall be selected by mutual agreement of the parents or guardians and the participating school district or responsible educational agency from a list maintained by the department of elementary and secondary education. Any mediator selected shall meet training, impartiality and assessment requirements pursuant to regulations promulgated by the department of elementary and secondary education **[**pursuant to section 536.034, RSMo**]**.

[9.**]** **8.** No attorney shall attend or participate on behalf of any party at the mediation session although the parent or guardian may be accompanied by a lay advocate. Each party may be accompanied by no more than three persons, with additional participants allowed only by mutual agreement.

[10. The representative of the participating school district or responsible educational agency shall have authority to reach an agreement on behalf of the school district.**]**

162.961. RESOLUTION CONFERENCE, CONDUCTED HOW — WAIVER OF REVIEW, EFFECT — ATTORNEY, CAPACITY — HEARING BEFORE PANEL, MEMBERS AND CHAIRMAN CHOSEN, HOW — WRITTEN REPORT — EXPEDITED HEARING — FORTY-FIVE DAY PLACEMENT. — 1. The resolution conference provided for in section 162.950 shall be conducted by the chief administrative officer of the responsible school district or a designee. The conference shall be informal, witnesses need not be sworn and a record of the proceedings need not be made. The school district or the state department of elementary and secondary education shall see that the parent or guardian or his representative is advised of and permitted to review all diagnoses, evaluations and reevaluations obtained by the board of education or the state department of elementary and secondary education which pertain to the child. The school district or state department of elementary and secondary education shall fully advise the parents or guardian or their representative of each reason relied upon by it in taking the proposed action. The parents or guardian or their representative may present any information whether written or oral to the officer which pertains to the recommended action. Questioning of all witnesses shall be permitted.

2. The resolution conference may be waived by the parents or guardian. If the parent or guardian waives the resolution conference and requests a three-member panel hearing, the state board of education shall empower such a panel pursuant to subsection 3 of this section. That empowerment shall take place within fifteen days of the request for the three-member panel hearing.

3. A parent, guardian or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child. Such request shall include the child's name, address, school, issue, and suggested resolution of dispute if known. Except as provided in subsection 6 of this section, the board or its delegated representative shall within fifteen days after receiving notice empower a hearing panel of three persons who are not directly connected with the original decision and who are not employees of the board to which the appeal has been made. All of the panel members shall have

some knowledge or training involving children with disabilities, none shall have a personal or professional interest which would conflict with his or her objectivity in the hearing, and all shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations **and federal law and regulation requirements of the Individuals With Disabilities Education Act**. One person shall be chosen by the local school district board or its delegated representative or the responsible educational agency, and one person shall be chosen at the recommendation of the parent or guardian. If either party has not chosen a panel member ten days after the receipt by the department of elementary and secondary education of the request for a due process hearing, such panel member shall be chosen instead by the department of elementary and secondary education. Each of these two panel members shall be compensated pursuant to a rate set by the department of elementary and secondary education. The third person shall be appointed by the state board of education and shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to practice law in this state. During the pendency of any three-member panel hearing, or prior to the empowerment of the panel, the parties may, by mutual agreement, submit their dispute to a mediator pursuant to section 162.959.

4. The parent or guardian, school official, and other persons affected by the action in question shall present to the hearing panel all pertinent evidence relative to the matter under appeal. All rights and privileges as described in section 162.963 shall be permitted.

5. After review of all evidence presented and a proper deliberation, the hearing panel, within forty-five days of receipt of the request for a due process hearing, except as provided in subsection 6 of this section relating to expedited hearings, shall by majority vote determine its findings, conclusions, and decision in the matter in question and forward the written decision to the parents or guardian of the child and to the president of the appropriate local board of education or responsible educational agency and to the department of elementary and secondary education. A specific extension of the time line may be made by the chairman at the request of either party, except in the case of an expedited hearing as provided in subsection 6 of this section.

6. An expedited due process hearing by the state board of education may be requested by a parent to challenge a disciplinary change of placement or to challenge a manifestation determination in connection with a disciplinary change of placement or by a responsible educational agency to seek a forty-five **school** day alternative educational placement for a dangerous or violent student. The board or its delegated representative shall appoint a hearing officer to hear the case and render a decision within the time line required by federal law and state regulations implementing federal law. The hearing officer shall be an attorney licensed to practice law in this state. The hearing officer shall have some knowledge or training involving children with disabilities, shall not have a personal or professional interest which would conflict with his or her objectivity in the hearing, and shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations **and federal law and regulation requirements of the Individuals With Disabilities Education Act**. A specific extension of the time line is only permissible to the extent consistent with federal law and pursuant to state regulations.

7. If the responsible public agency requests a due process hearing to seek a forty-five **school** day alternative educational placement for a dangerous or violent student, the agency shall show by substantial evidence that there is a substantial likelihood the student will injure himself or others and that the agency made reasonable efforts to minimize that risk, and shall show that the forty-five **school** day alternative educational placement will provide a free appropriate public education which includes services and modifications to address the behavior so that it does not reoccur, and continue to allow progress in the general education curriculum.

8. Any due process hearing request and responses to the request shall conform to the requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the sufficiency shall be made by the chairperson of the three-member hearing panel, or in the case of an expedited due process hearing, by the hearing officer. The

chairperson or hearing officer shall implement the process and procedures, including timelines, required by the IDEA, related to sufficiency of notice, response to notice, determination of sufficiency dispute, and amendments of the notice.

9. A preliminary meeting, known as a resolution session, shall be convened by the responsible public agency, under the requirements of the IDEA. The process and procedures required by the IDEA in connection to the resolution session and any resulting written settlement agreement shall be implemented.

Approved July 14, 2005

HB 280 [HB 280]

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

Requires election judges to take voting ballots and equipment to physically disabled voters unable to enter polling places

AN ACT to repeal section 115.436, RSMo, and to enact in lieu thereof one new section relating to physically disabled voters.

SECTION
A. Enacting clause.
115.436. Physically disabled may vote at polling place, procedure.

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

SECTION A. ENACTING CLAUSE. — Section 115.436, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.436, to read as follows:

115.436. PHYSICALLY DISABLED MAY VOTE AT POLLING PLACE, PROCEDURE. — 1. In jurisdictions using paper ballots and electronic voting systems, when any physically disabled voter within two hundred feet of a polling place is unable to enter the polling place, two election judges, one of each major political party, shall**[**, when time permits,**]** take a ballot, equipment and materials necessary for voting to the voter. The voter shall mark the ballot, and the election judges shall place the ballot in an envelope, seal it and place it in the ballot box.

2. In jurisdictions using voting machines, when any physically disabled voter within two hundred feet of a polling place is unable to enter the polling place, two election judges, one of each major political party, shall**[**, when time permits,**]** take an absentee ballot to the voter. The voter shall mark the ballot, and the election judges shall place the ballot in an envelope, seal it and place it in the ballot box.

3. Upon request to the election authority, the election authority in any jurisdiction shall designate a polling place accessible to any physically disabled voter other than the polling place to which that voter would normally be assigned to vote, provided that the candidates and issues voted on are consistent for both the designated location and the voting location for the voter's precinct. Upon request, the election authority may also assign members of the physically disabled voter's household and such voter's caregiver to the same voting location as the physically disabled voter. In no event shall a voter be assigned under this section to a designated location apart from the established voting location for the voter's precinct if the voter objects to the assignment to another location.

Approved July 12, 2005

HB 297 [CCS SCS HCS HB 297]

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 laws regarding elementary and secondary education

AN ACT to repeal sections 160.522, 168.104, 168.211, 168.221, 168.261, and 168.515, RSMo, and to enact in lieu thereof six new sections relating to elementary and secondary education.

SECTION

A. Enacting clause.
160.522. School accountability report card for each school district, purpose — standard form, contents — distribution of report card information.
168.104. Definitions.
168.211. Superintendent of schools, appointment, term — superintendent to appoint a treasurer and commissioner of school buildings and associate and assistant superintendents — bond — powers of superintendent (metropolitan districts).
168.221. Probationary period for teachers — removal of probationary and permanent personnel — hearing — demotions — reduction of personnel (metropolitan districts).
168.261. Director of personnel, appointment — personnel committee, appointment (metropolitan districts).
168.515. Salary supplement for participants in career plan — method of distribution — amounts — matching funds, formula, contributions — bonus contribution, when — review of career pay — tax levy authorized, when — use of funds — exception to contribution.

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

SECTION A. ENACTING CLAUSE. — Sections 160.522, 168.104, 168.211, 168.221, 168.261, and 168.515, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 160.522, 168.104, 168.211, 168.221, 168.261, and 168.515, to read as follows:

160.522. SCHOOL ACCOUNTABILITY REPORT CARD FOR EACH SCHOOL DISTRICT, PURPOSE — STANDARD FORM, CONTENTS — DISTRIBUTION OF REPORT CARD INFORMATION. — 1. **[**School districts shall provide, at least annually, a school accountability report card for each school building to any household with a student enrolled in the district. Methods of distribution of the school accountability report card may include, but are not restricted to:

(1) Distribution at the time and place of student enrollment;

(2) Inclusion with student grade reports;

(3) Newspaper publication;

(4) Posting by the school district by Internet or other electronic means generally accessible to the public; or

(5) Making copies available upon request at all school or administrative buildings in any school district.

The school district reports shall be distributed to all media outlets serving the district, and shall be made available, upon request, to all district patrons and to each member of the general assembly representing a legislative district which contains a portion of the school district**] The department of elementary and secondary education shall produce or cause to be produced, at least annually, a school accountability report card for each public school district, each public school building in a school district, and each charter school in the state. The report card shall be designed to satisfy state and federal requirements for the disclosure of statistics about students, staff, finances, academic achievement, and other indicators. The purpose of the report card shall be to provide educational statistics and accountability information for parents, taxpayers, school personnel, legislators, and the print and broadcast news media in a standardized, easily accessible form**.

2. The department of elementary and secondary education shall develop a standard form for the school accountability report card **[**which may be used by school districts**]**. The information reported shall include, but not be limited to, **the district's most recent accreditation rating,** enrollment, rates of pupil attendance, high school dropout rate**[**, the rates and durations of, and reasons for,**]** **and graduation rate, the number and rate of** suspensions of ten days or longer and expulsions of pupils, **[**staffing ratios, including**]** the district ratio of students to **[**all teachers, to**]** administrators**[**,**]** and **students** to classroom teachers, the average years of experience of professional staff and advanced degrees earned, student achievement as **[**determined**]** **measured** through the assessment system developed pursuant to section 160.518, student scores on the **[**SAT or**]** ACT, **[**as appropriate,**]** along with the percentage of **[**students**]** **graduates** taking **[**each**]** **the** test, average teachers' and administrators' salaries compared to the state averages, **[**average salaries of noncertificated personnel compared to state averages,**]** average per pupil **current** expenditures for the district as a whole and by attendance center as reported to the department of elementary and secondary education, **[**voted and**]** **the** adjusted tax **[**rates levied**]** **rate of the district**, assessed valuation **of the district**, percent of the district operating budget received from state, federal, and local sources, the **[**number**]** **percent** of students eligible for free or **[**reduced**]** **reduced-price** lunch, **[**school calendar information, including days of student attendance, parent-teacher conferences, and staff development or in-service training, data on course offerings and rates of participation in parent-teacher conferences, special education programs, early childhood special education programs, parents as teachers programs, vocational education programs, gifted or enrichment programs, and advanced placement programs,**]** data on the **[**number**]** **percent** of students continuing their education in postsecondary programs**,** and information about **the** job placement **rate** for students who complete district vocational education programs**[**, and the district's most recent accreditation by the state board of education, including measures for school improvement**]**.

3. The **[**public reporting**]** **report card** shall permit the disclosure of data on a school-by-school basis, but the reporting shall not be personally identifiable to any student or education professional in the state.

4. **[**The annual report made by the state board of education pursuant to section 161.092, RSMo, shall include a summary of school districts accredited, provisionally accredited, and unaccredited under the Missouri school improvement program, including an analysis of standards met and not met, and an analysis of state program assessment data collected pursuant to section 160.526, describing the kinds of tasks students can perform**]** **The report card shall identify each school or attendance center that has been identified as a priority school under sections 160.720 and 161.092, RSMo. The report also shall identify attendance centers that have been categorized under federal law as needing improvement or requiring specific school improvement strategies.**

5. The report card shall not limit or discourage other methods of public reporting and accountability by local school districts. Districts shall provide information included in the report card to parents, community members, the print and broadcast news media, and legislators by December first annually or as soon thereafter as the information is available to the district, giving preference to methods that incorporate the reporting into substantive official communications such as student report cards. The school district shall provide a printed copy of the district level or school level report card to any patron upon request and shall make reasonable efforts to supply businesses such as, but not limited to, real estate and employment firms with copies or other information about the reports so that parents and businesses from outside the district who may be contemplating relocation have access.

168.104. DEFINITIONS. — The following words and phrases when used in sections 168.102 to 168.130, except in those instances where the context indicates otherwise, mean:

(1) "Board of education", the school board or board of directors of a school district, except a metropolitan school district, having general control of the affairs of the district;

(2) "Demotion", any reduction in salary or transfer to a position carrying a lower salary, except on request of a teacher, other than any change in salary applicable to all teachers or all teachers in a classification;

(3) "Indefinite contract", every contract heretofore or hereafter entered into between a school district and a permanent teacher;

(4) "Permanent teacher", any teacher who has been employed or who is hereafter employed as a teacher in the same school district for five successive years and who has continued or who thereafter continues to be employed as a teacher by the school district or any supervisor of teachers who was employed as a teacher in the same school district for at least five successive years prior to becoming a supervisor of teachers and who continues thereafter to be employed as a certificated employee by the school district; except that, when a permanent teacher resigns or is permanently separated from employment by a school district, and is afterwards reemployed by the same school district, reemployment for the first school year does not constitute an indefinite contract but if he is employed for the succeeding year, the employment constitutes an indefinite contract; and except that any teacher employed under a part-time contract by a school district shall accrue credit toward permanent status on a prorated basis. Any permanent teacher who is promoted with his consent to a supervisory position including principal or assistant principal, or is first employed by a district in a supervisory position including principal or assistant principal, shall not have permanent status in such position but shall retain tenure in the position previously held within the district, or, after serving two years as principal or assistant principal, shall have tenure as a permanent teacher of that system;

(5) "Probationary teacher", any teacher as herein defined who has been employed in the same school district for five successive years or less. In the case of any probationary teacher who has been employed in any other school system as a teacher for two or more years, the board of education shall waive one year of his probationary period;

(6) "School district", every school district in this state, except metropolitan school district as defined in section 162.571, RSMo;

(7) "Teacher", any employee of a school district, except a metropolitan school district, regularly required to be certified under laws relating to the certification of teachers, except superintendents and assistant superintendents but including certified teachers who teach at the prekindergarten level in a nonmetropolitan public school **within a prekindergarten program in which no fees are charged to parents or guardians**.

168.211. SUPERINTENDENT OF SCHOOLS, APPOINTMENT, TERM — SUPERINTENDENT TO APPOINT A TREASURER AND COMMISSIONER OF SCHOOL BUILDINGS AND ASSOCIATE AND ASSISTANT SUPERINTENDENTS — BOND — POWERS OF SUPERINTENDENT (METROPOLITAN DISTRICTS). — 1. In metropolitan districts the superintendent of schools shall be appointed by the board of education for a term of one to **[**four**]** **five** years, during which term his compensation shall not be reduced. The superintendent of schools **[**shall**]** **may** appoint, with the approval of the board, a treasurer, a commissioner of school buildings and he shall serve at the pleasure of the superintendent of schools and as many associate and assistant superintendents as he deems necessary, whose compensation shall be fixed by the board. The superintendent of schools shall give bond in the sum that the board requires but not less than fifty thousand dollars. No employee or agent of the board shall be a member of the board.

2. The superintendent of schools shall have general supervision, subject to **[**the control of**]** **policies established by** the board, of the school system, including its various departments and physical properties, courses of instruction, discipline and conduct of the schools, textbooks and studies. All appointments, promotions and transfers of teachers **and all other employees**, and introduction and changes of textbooks and apparatus, shall be made by the superintendent with the approval of the board. All appointments and promotions of teachers **and all other**

employees shall be made upon the basis of merit, to be ascertained, as far as practicable, in cases of appointment, by examination, and in cases of promotion, by length and character of service. Examinations for appointment shall be conducted by the superintendent under regulations to be made by the board. He shall make such reports to the board that it directs or the rules provide.

3. The superintendent of schools shall have general supervision, subject to **[**the approval of**] policies established by** the board, of all school buildings, apparatus, equipment and school grounds and of their construction, installation, operation, repair, care and maintenance; the purchasing of all supplies and equipment; the operation of the school lunchrooms; the administration of examinations for the appointment and promotion of all employees of the school system; and the preparation and administration of the annual budget for the school system. Subject to the approval of the board of education as to number and salaries, the superintendent may appoint as many employees as are necessary for the proper performance of his duties.

4. The board may grant a leave of absence to the superintendent of schools, and may remove him from office by vote of a majority of its members.

5. **[**The**] Should the superintendent hire a** commissioner of school buildings**, said person** shall be a person qualified by reason of education, experience and general familiarity with buildings and personnel to assume the following responsibilities and duties. Subject to the control of the superintendent of schools, he shall exercise supervision over all school buildings, machinery, heating systems, equipment, school grounds and other buildings and premises of the board of education and the construction, installation, operation, repair, care and maintenance related thereto and the personnel connected therewith; the purchasing of building supplies and equipment and such other duties as may be assigned to him by board rules or regulations**[**, provided that this provision shall not apply to any commissioner of school buildings serving on October 13, 1967**]**.

168.221. PROBATIONARY PERIOD FOR TEACHERS — REMOVAL OF PROBATIONARY AND PERMANENT PERSONNEL — HEARING — DEMOTIONS — REDUCTION OF PERSONNEL (METROPOLITAN DISTRICTS). — 1. The first five years of employment of all teachers entering the employment of the metropolitan school district shall be deemed a period of probation during which period all appointments of teachers shall expire at the end of each school year. During the probationary period any probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of schools with a written statement setting forth the nature of his incompetency. If improvement satisfactory to the superintendent is not made within one semester after the receipt of the statement, the probationary teacher shall be dismissed. The semester granted the probationary teacher in which to improve shall not in any case be a means of prolonging the probationary period beyond five years and six months from the date on which the teacher entered the employ of the board of education. The superintendent of schools on or before the fifteenth day of April in each year shall notify probationary teachers who will not be retained by the school district of the termination of their services. Any probationary teacher who is not so notified shall be deemed to have been appointed for the next school year. Any principal who prior to becoming a principal had attained permanent employee status as a teacher shall upon ceasing to be a principal have a right to resume his or her permanent teacher position with the time served as a principal being treated as if such time had been served as a teacher for the purpose of calculating seniority and pay scale. The rights and duties and remuneration of a teacher who was formerly a principal shall be the same as any other teacher with the same level of qualifications and time of service.

2. After completion of satisfactory probationary services, appointments of teachers shall become permanent, subject to removal for any one or more causes herein described and to the right of the board to terminate the services of all who attain the age of compulsory retirement fixed by the retirement system. In determining the duration of the probationary period of employment in this section specified, the time of service rendered as a substitute teacher shall not be included.

3. No teacher whose appointment has become permanent may be removed except for one or more of the following causes: immorality, inefficiency in line of duty, violation of the published regulations of the school district, violation of the laws of Missouri governing the public schools of the state, or physical or mental condition which incapacitates him for instructing or associating with children, and then only by a vote of not less than a majority of all the members of the board, upon written charges presented by the superintendent of schools, to be heard by the board after thirty days' notice, with copy of the charges served upon the person against whom they are preferred, who shall have the privilege of being present, together with counsel, offering evidence and making defense thereto. Notifications received by an employee during a vacation period shall be considered as received on the first day of the school term following. At the request of any person so charged the hearing shall be public. The action and decision of the board upon the charges shall be final. Pending the hearing of the charges, the person charged may be suspended if the rules of the board so prescribe, but in the event the board does not by a majority vote of all the members remove the teacher upon charges presented by the superintendent, the person shall not suffer any loss of salary by reason of the suspension. Inefficiency in line of duty is cause for dismissal only after the teacher has been notified in writing at least one semester prior to the presentment of charges against him by the superintendent. The notification shall specify the nature of the inefficiency with such particularity as to enable the teacher to be informed of the nature of his inefficiency.

4. No teacher whose appointment has become permanent shall be demoted nor shall his salary be reduced unless the same procedure is followed as herein stated for the removal of the teacher because of inefficiency in line of duty, and any teacher whose salary is reduced or who is demoted may waive the presentment of charges against him by the superintendent and a hearing thereon by the board. The foregoing provision shall apply only to permanent teachers prior to the compulsory retirement age under the retirement system. Nothing herein contained shall in any way restrict or limit the power of the board of education to make reductions in the number of teachers or principals, or both, because of insufficient funds, decrease in pupil enrollment, or abolition of particular subjects or courses of instruction, except that the abolition of particular subjects or courses of instruction shall not cause those teachers who have been teaching the subjects or giving the courses of instruction to be placed on leave of absence as herein provided who are qualified to teach other subjects or courses of instruction, if positions are available for the teachers in the other subjects or courses of instruction.

5. Whenever it is necessary to decrease the number of teachers **[**or principals, or both,**]** because of insufficient funds or a substantial decrease of pupil population within the school district, the board of education upon recommendation of the superintendent of schools may cause the necessary number of teachers **[**or principals, or both,**]** beginning with those serving probationary periods, to be placed on leave of absence without pay, but only in the inverse order of their appointment. Nothing herein stated shall prevent a readjustment by the board of education of existing salary schedules. No teacher **[**or principal**]** placed on a leave of absence shall be precluded from securing other employment during the period of the leave of absence. Each teacher **[**or principal**]** placed on leave of absence shall be reinstated in inverse order of his placement on leave of absence. Such reemployment shall not result in a loss of status or credit for previous years of service. No new appointments shall be made while there are available teachers **[**or principals**]** on leave of absence who are seventy years of age or less and who are adequately qualified to fill the vacancy unless the teachers **[**or principals**]** fail to advise the superintendent of schools within thirty days from the date of notification by the superintendent of schools that positions are available to them that they will return to employment and will assume the duties of the position to which appointed not later than the beginning of the school year next following the date of the notice by the superintendent of schools.

6. If any regulation which deals with the promotion of either teachers **[**or principals, or both,**]** is amended by increasing the qualifications necessary to be met before a teacher **[**or principal**]** is eligible for promotion, the amendment shall fix an effective date which shall allow

a reasonable length of time within which teachers **[**or principals**]** may become qualified for promotion under the regulations.

168.261. DIRECTOR OF PERSONNEL, APPOINTMENT — PERSONNEL COMMITTEE, APPOINTMENT (METROPOLITAN DISTRICTS). — A director of personnel **[**shall**] may** be appointed by the superintendent of schools subject to the approval of the board of education of the metropolitan school district. The director of personnel shall be a member of a personnel committee representing certificated and noncertificated employees, the committee to be appointed in the manner that the rules of the board of education provide.

168.515. SALARY SUPPLEMENT FOR PARTICIPANTS IN CAREER PLAN — METHOD OF DISTRIBUTION — AMOUNTS — MATCHING FUNDS, FORMULA, CONTRIBUTIONS — BONUS CONTRIBUTION, WHEN — REVIEW OF CAREER PAY — TAX LEVY AUTHORIZED, WHEN — USE OF FUNDS — EXCEPTION TO CONTRIBUTION. — 1. Each teacher selected to participate in a career plan established under sections 168.500 to 168.515, who meets the requirements of such plan, shall receive a salary supplement, the state's share of which shall be distributed under section 163.031, RSMo, equal to the following amounts applied to the career ladder entitlement of line 15 of subsection 6 of section 163.031, RSMo:

(1) Career stage I teachers may receive up to an additional one thousand five hundred dollars per school year;

(2) Career stage II teachers may receive up to an additional three thousand dollars per school year;

(3) Career stage III teachers may receive up to an additional five thousand dollars per school year.

All teachers within each stage within the same school district shall receive equal salary supplements.

2. The state shall make payments pursuant to section 163.031, RSMo, to the local school district for the purpose of reimbursing the local school district for the payment of any salary supplements provided for in this section, subject to the availability of funds as appropriated each year and distributed on a variable match formula which shall be based on equalized assessed valuation of the district for the second preceding school year. A district's equalized assessed valuation shall be multiplied by the district income factor defined in section 163.011, RSMo, and shall be known as the adjusted equalized assessed valuation.

3. In distributing these matching funds, school districts shall be ranked by the adjusted equalized assessed valuation for the second preceding school year per eligible pupil from the highest to the lowest and divided into three groups. Group one shall contain the highest twenty-five percent of all public school districts, groups two and three combined shall contain the remaining seventy-five percent of all public school districts. The districts in groups two and three shall be rank-ordered from largest to smallest based on enrollment as of the last Wednesday in September during the second preceding school year, group two shall contain twenty-five percent of all public school districts that are larger on the enrollment-based rank-ordered list and group three shall contain the remaining fifty percent of all public school districts. Pursuant to subsection 4 of this section, districts in group one shall receive forty percent state funding and shall contribute sixty percent local funding, group two shall receive fifty percent state funding and shall contribute fifty percent local funding and group three shall receive sixty percent state funding and shall contribute forty percent local funding.

4. The incremental groups are as follows:

Group	Percentage of Districts	Percentage of State Funding	Percentage of Local Funding
1	25%	40%	60%
2	25%	50%	50%
3	50%	60%	40%

5. Beginning in the 1996-97 school year, any school district in any group which participated in the career ladder program in 1995-96 and paid less than the local funding percentage required by subsection 4 of this section shall increase its local share of career ladder costs by five percentage points from the preceding year until the district pays the percentage share of cost required by subsection 4 of this section, and in no case shall the local funding percentage be increased by a greater amount for any year. For any district, the state payment shall not exceed the local payment times the state percentage share divided by the local percentage share. **Except as provided in subsection 10 of this section,** any district not participating in the 1995-96 school year or any district which interrupts its career ladder program for any subsequent year shall enter the program on the cost-sharing basis required by subsection 4 of this section.

6. Not less than every fourth year, beginning with calendar year 1988, the general assembly, through the joint committee established under section 160.254, RSMo, shall review the amount of the career pay provided for in this section to determine if any increases are necessary to reflect the increases in the cost of living which have occurred since the salary supplements were last reviewed or set.

7. To participate in the salary supplement program established under this section, a school district may submit to the voters of the district a proposition to increase taxes for this purpose. If a school district's current tax rate ceiling is at or above the rate from which an increase would require a two-thirds majority, the school board may submit to the voters of the district a proposition to reduce or eliminate the amount of the levy reduction resulting from section 164.013, RSMo. If a majority of the voters voting thereon vote in favor of the proposition, the board may certify that seventy-five percent of the revenue generated from this source shall be used to implement the salary supplement program established under this section.

8. In no case shall a school district use state funds received under this section nor local revenue generated from a tax established under subsection 7 of this section to comply with the minimum salary requirements for teachers established pursuant to section 163.172, RSMo.

9. Beginning in the 1996-97 school year, for any teacher who participated in the career program in the 1995-96 school year, continues to participate in the program thereafter, and remains qualified to receive career pay pursuant to section 168.510, the state's share of the teacher's salary supplement shall continue to be the percentage paid by the state in the 1995-96 school year, notwithstanding any provisions of subsection 4 of this section to the contrary, and the state shall continue to pay such percentage of the teacher's salary supplement until any of the following occurs:

(1) The teacher ceases his or her participation in the program; or

(2) The teacher suspends his or her participation in the program for any school year after the 1995-96 school year. If the teacher later resumes participation in the program, the state funding shall be subject to the provisions of subsection 4 of this section.

10. Any school district that participated in the career ladder program prior to the 2001-2002 school year but ceased its participation at any time from July 1, 2001, to July 1, 2005, may resume participation in the program no later than July 1, 2006, at the same matching level, pursuant to subsections 4 and 5 of this section, for which the district qualified during its last year of participation.

Approved July 12, 2005

HB 323 [HB 323]

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

Recodifies the laws regarding the Police Retirement System of Kansas City and the Civilian Employees' Retirement System of the Police Department of Kansas City

AN ACT to repeal sections 86.370, 86.373, 86.374, 86.377, 86.380, 86.383, 86.387, 86.390, 86.393, 86.394, 86.397, 86.398, 86.400, 86.403, 86.407, 86.410, 86.413, 86.417, 86.420, 86.423, 86.427, 86.430, 86.433, 86.434, 86.437, 86.440, 86.441, 86.442, 86.443, 86.445, 86.447, 86.450, 86.453, 86.457, 86.460, 86.463, 86.467, 86.470, 86.473, 86.477, 86.480, 86.483, 86.487, 86.490, 86.493, 86.497, 86.600, 86.610, 86.611, 86.620, 86.630, 86.640, 86.650, 86.660, 86.665, 86.670, 86.671, 86.672, 86.675, 86.676, 86.680, 86.690, 86.700, 86.710, 86.720, 86.730, 86.740, 86.745, 86.750, 86.760, 86.770, 86.780 and 86.790, RSMo, and to enact in lieu thereof seventy-three new sections relating to Kansas City police retirement.

SECTION

A. Enacting clause.
86.900. Definitions.
86.910. Police retirement system created — election to continue system after decline in population.
86.920. Retirement board established, responsibility for operation of retirement system.
86.930. Membership of the board — election procedures — vacancies — oath.
86.940. Voting rights of board members.
86.950. Board to establish policies — officers and employees.
86.951. Board deemed a state agency — rulemaking authority.
86.960. Data and records — annual report — actuarial study — appointment of a medical board — common seal.
86.970. Compensation of board members.
86.980. Board members in active police service, leave to attend educational seminars.
86.990. Board to certify amount to be paid by city, when.
86.1000. Contributions to pension fund by city — board to certify to board of police commissioners amount required.
86.1010. Members' retirement contributions, amount, how determined.
86.1020. Board to act as trustee of certain funds — powers of the board.
86.1030. Benefits and administrative expenses to be paid by retirement system funds.
86.1040. Retirement benefits not subject to execution, garnishment, or attachment — tax-exempt status of funds.
86.1050. Criminal liability not limited by retirement system laws.
86.1060. Board may sue and be sued — service of process, procedure.
86.1070. Findings of the board — review.
86.1080. Purchase of insurance policies permitted — indemnification — expenses of court proceedings may be paid, when.
86.1090. Membership of persons entering or reentering the force after effective date of retirement system.
86.1100. Creditable service, board to fix and determine by rule.
86.1110. Military leave of absence, effect of.
86.1120. Termination of members after five or more years of service, credit towards retirement.
86.1130. Membership, terminated when.
86.1140. Leave of absence not to act as termination of membership — creditable service permitted, when.
86.1150. Retirement age — base pension amount.
86.1160. Termination of membership prior to death or retirement, effect of.
86.1170. Pension benefit after 25 years of service or injury in line of duty, when.
86.1180. Permanent disability caused by performance of duty, retirement by board of police commissioners permitted — base pension amount — certification of disability.
86.1190. Workers' compensation benefit payments, offset against retirement benefits, exceptions — member's percentage defined.
86.1200. Permanent disability not caused by performance of duty, ten years of creditable service, retirement permitted — base pension amount — certification of disability.
86.1210. Retirement after twenty-six years — partial lump sum option plan distribution authorized.
86.1220. Cost-of-living adjustments in addition to base pension.
86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
86.1240. Pensions of spouses of deceased members.
86.1250. Pensions of children of deceased members.
86.1260. Pensions of spouse and children of member who died in performance of duty.
86.1270. Retirement plan deemed qualified plan under federal law — board to administer plan as a qualified plan — vesting of benefits — distributions — definitions.
86.1280. Early retirement incentives, effect of.
86.1310. Definitions.

86.1320. System established — continuation of system after population increase, when — name of system.
86.1330. Retirement board established, members, duties — funds received, duties — oath of board members required.
86.1350. Voting by board, votes necessary to pass a motion.
86.1360. Administration of assets and transaction of business, board to set policies — rulemaking authority — officers to be elected, employment of staff.
86.1370. Data to be maintained by board — annual statement required — actuarial study and calculation required — medical board to be appointed — seal to be adopted.
86.1380. Certification by the board to the city for amount to be paid to the retirement system.
86.1390. Contributions to retirement system by cities, amount.
86.1400. Employee contributions to be deducted from compensation — payment by board of police commissioners.
86.1410. Board to be trustee of funds — powers and duties.
86.1420. Benefits and administrative expenses to be paid by system funds.
86.1430. Retirement benefits not subject to execution, garnishment, or attachment — exceptions — funds exempt from taxation.
86.1440. Criminal liability not limited by statutory provisions — correction of benefit errors by the board.
86.1450. Board may sue and be sued — service of process, procedure.
86.1460. Findings of board final and conclusive — judicial review.
86.1470. Board may purchase liability insurance — indemnification, when.
86.1480. Who shall be members.
86.1490. Creditable service, inclusions and exclusions.
86.1500. Military service, effect on creditable service — election to purchase creditable service, when.
86.1510. Members entitled to prior creditable service, when.
86.1520. Duration of membership.
86.1530. Normal retirement dates.
86.1540. Normal pension, amount — early retirement option, when — election for optional benefit for spouse — pension after five years of creditable service — payments, made when — felony conviction, effect of.
86.1550. Termination of employment prior to five years of creditable service, lump-sum payment.
86.1560. Disability retirement pension, amount — definitions — board to determine disability, proof may be required.
86.1570. Offset to workers' compensation payments — member's percentage defined.
86.1580. Optional distribution under partial lump-sum option plan, when — death before retirement, effect of.
86.1590. Cost-of-living adjustments — base pension defined.
86.1600. Supplemental retirement benefit, amount, cost-of-living adjustments — special consultant, compensation — cost-of-living adjustments, rulemaking authority — member defined.
86.1610. Death of member in service, benefit to be received — death of member after retirement, benefit to be received — surviving spouse benefits — payments to designated beneficiaries, when.
86.1620. Funeral benefits, amount — lump-sum payment to surviving spouse, when.
86.1630. Tax-exempt status of plan to be maintained — assets of system to be held in trust — member benefits vested, when — distribution of benefits.
86.1640. Incentives for early retirement, board to administer and pay.
86.370. Definitions.
86.373. Police retirement system created in certain cities — election to continue system despite decline in population.
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.
86.377. Membership of persons entering or reentering the force after effective date of this law.
86.380. Policemen to be members, exception — effect of military service — repayment of withdrawn contributions.
86.383. Revocation of election not to become a member.
86.387. Temporary leave not to affect membership, when — member to pay own contribution, when.
86.390. Membership terminated, when — beneficiaries and survivors not members, when.
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.
86.397. Compensation of board.
86.398. Retirement board, purchase of liability insurance, indemnification of member, how — payment of legal expenses, when.
86.400. Oath.
86.403. Voting — quorum.
86.407. Board to establish rules and regulations — officers and employees.
86.410. Data and records — annual report — actuarial study.
86.413. Board to certify amount to be paid by city, when.
86.417. Seal — suits, how brought.
86.420. Findings of board — review.
86.423. Filing and verification of prior service statement.

86.427. Prior service certificates — issuance.
86.430. Creditable service to include — active duty in armed forces, purchase of prior creditable service — creditable service not included for member suspended without pay.
86.433. Retirement after thirty years, exception — minimum pension.
86.434. Lump-sum option plan distribution of benefits, election procedure — void, when.
86.437. Retirement at age sixty, when — pension, how calculated.
86.440. Minimum pensions — special consultant, duty, compensation, cost-of-living adjustments.
86.441. Cost-of-living adjustments, how computed.
86.442. Supplemental retirement benefits, amounts, determination, purpose — member to be special consultant, compensation — board, powers — surviving spouse benefit limitations.
86.443. Compulsory retirement, exception.
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.
86.450. Accidental disability pension — periodical examinations — effect of earnings.
86.453. Dependents' allowances on death from accident in service.
86.457. Pension where disability not exclusively connected with service — nonduty disability beneficiary, periodic examinations required.
86.460. Workers' compensation benefits to be set off against payments under this law, exceptions.
86.463. Pension after ten years' service, termination of service by commissioners — pension after fifteen years' service on resignation, how calculated.
86.467. Payment of accumulated contributions, when.
86.470. Member's contributions.
86.473. Deductions — members deemed to consent to — to be paid into pension fund.
86.477. Contributions by city.
86.480. City to appropriate money needed.
86.483. Investment of funds, board authorized to manage, designate depository — procedures.
86.487. Secretary and treasurer to give bond.
86.490. Benefits and administration expense are obligations of funds.
86.493. Moneys exempt from taxation and process, except for support orders and assignments.
86.497. Criminal liability — correction of errors in benefits — adjustment.
86.600. Definitions.
86.610. Establishment of system — name — effective date — continuation of system despite failure to meet requirements.
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.
86.620. Who shall be members — membership vests, when — terminated employee with five years' service option to withdraw contribution or leave in fund for pension — special consultant, duty, compensation.
86.630. Creditable service — members entitled to prior service credit, when — active duty in armed forces, purchase of prior credit — no creditable service for member suspended without pay.
86.640. Normal retirement dates.
86.650. Normal pension, amount — optional annuity, amount, payments, when.
86.660. Early retirement — amount of pension, how determined.
86.665. Lump-sum option plan distribution, procedure — void, when.
86.670. Disability retirement pension, amount.
86.671. Offsets to workers' compensation payments — rulemaking authorized — member's percentage defined.
86.672. Supplemental retirement health insurance benefit — special consultant, compensation — cost-of-living adjustment, computation — eligibility for benefits.
86.675. Cost-of-living adjustment — terms defined.
86.676. Incentives for early retirement, board to administer and pay.
86.680. Employees to remain members — termination of membership.
86.690. Death of member prior to or following retirement, payments made, how — additional one thousand dollar funeral benefit paid, when.
86.700. Board to administer system — members — authority — election of members.
86.710. Board members to take oath.
86.720. Board to make rules — officers — employees.
86.730. Retirement boards — votes — records and reports — seal.
86.740. Rulings of board — judicial review.
86.745. Board may purchase liability insurance — indemnification in case of action, suit, or proceeding — when.
86.750. Board shall be trustees of funds — powers and duties.
86.760. Employee's contributions to be deducted — cities to contribute.
86.770. Contributions credited to system — benefits, expenses — employer obligation.
86.780. Fund moneys exempt from execution — not assignable, except for support obligations.
86.790. Fraud in obtaining benefits forfeits rights.

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

SECTION A. ENACTING CLAUSE. — Sections 86.370, 86.373, 86.374, 86.377, 86.380, 86.383, 86.387, 86.390, 86.393, 86.394, 86.397, 86.398, 86.400, 86.403, 86.407, 86.410, 86.413, 86.417, 86.420, 86.423, 86.427, 86.430, 86.433, 86.434, 86.437, 86.440, 86.441, 86.442, 86.443, 86.445, 86.447, 86.450, 86.453, 86.457, 86.460, 86.463, 86.467, 86.470, 86.473, 86.477, 86.480, 86.483, 86.487, 86.490, 86.493, 86.497, 86.600, 86.610, 86.611, 86.620, 86.630, 86.640, 86.650, 86.660, 86.665, 86.670, 86.671, 86.672, 86.675, 86.676, 86.680, 86.690, 86.700, 86.710, 86.720, 86.730, 86.740, 86.745, 86.750, 86.760, 86.770, 86.780 and 86.790, RSMo, are repealed and seventy-three new sections enacted in lieu thereof, to be known as sections 86.900, 86.910, 86.920, 86.930, 86.940, 86.950, 86.951, 86.960, 86.970, 86.980, 86.990, 86.1000, 86.1010, 86.1020, 86.1030, 86.1040, 86.1050, 86.1060, 86.1070, 86.1080, 86.1090, 86.1100, 86.1110, 86.1120, 86.1130, 86.1140, 86.1150, 86.1160, 86.1170, 86.1180, 86.1190, 86.1200, 86.1210, 86.1220, 86.1230, 86.1240, 86.1250, 86.1260, 86.1270, 86.1280, 86.1310, 86.1320, 86.1330, 86.1350, 86.1360, 86.1370, 86.1380, 86.1390, 86.1400, 86.1410, 86.1420, 86.1430, 86.1440, 86.1450, 86.1460, 86.1470, 86.1480, 86.1490, 86.1500, 86.1510, 86.1520, 86.1530, 86.1540, 86.1550, 86.1560, 86.1570, 86.1580, 86.1590, 86.1600, 86.1610, 86.1620, 86.1630 and 86.1640, to read as follows:

86.900. DEFINITIONS. — The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(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 86.900 to 86.1280;

(2) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

(3) "Board of police commissioners", the board composed of police commissioners 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, or any city that has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

(5) "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(6) "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, 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 needed by the board;

(7) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691, RSMo;

(8) "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service 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;

(9) "Fiscal year", for the retirement system, the fiscal year of the cities;

(10) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

(11) "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;

(12) "Member", a member of the police retirement system as described in section 86.1090;

(13) "Pension", annual payments for life, payable monthly, beginning with the date of retirement or other applicable commencement date and ending with death;

(14) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

(15) "Police officer", 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 who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510, RSMo; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

(16) "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

(17) "Retirement system", the police retirement system of the cities as defined in section 86.910;

(18) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

86.910. POLICE RETIREMENT SYSTEM CREATED — ELECTION TO CONTINUE SYSTEM AFTER DECLINE IN POPULATION. — In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for police officers of such cities. Any city which has established a police retirement system under the provisions of sections 86.370 to 86.497 or sections 86.900 to 86.1280 may elect to continue its police retirement system under the provisions of sections 86.900 to 86.1280 even though the city may cease to have the population

described in this section, and any city so electing to continue its established police retirement system shall be excused from creating or maintaining any other police retirement system under any other provisions of the Missouri statutes. Each system shall be under the management of a retirement board to be known as the "Police Retirement System of (name of city)", and by such name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation on the effective date of sections 86.370 to 86.497.

86.920. RETIREMENT BOARD ESTABLISHED, RESPONSIBILITY FOR OPERATION OF RETIREMENT SYSTEM. — The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.900 to 86.1280 are hereby vested in a retirement board of nine persons.

86.930. MEMBERSHIP OF THE BOARD — ELECTION PROCEDURES — VACANCIES — OATH. — 1. The retirement 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, shall 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, shall be selected by the city council of such 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; and

(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, each person receiving benefits as a surviving spouse of a 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 86.1310 to 86.1640, each member of such civilian employees' retirement system and each person receiving benefits as a surviving spouse of a member of such civilian employees' retirement system shall be entitled to one vote.

2. Commencing with the first annual election for members of the retirement board in 2004, the five elected members of the board shall be designated and elected as follows:

(1) If a city has established a civilian employees' retirement system of the police department of such city under the provisions of sections 86.1310 to 86.1640, the elected members of the retirement board of such city shall consist of three restricted members and two open members:

(a) 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) One restricted member shall be a member of the police retirement system who, as of the date of such member's election to the board, is in active service as a police officer and has not attained the rank of sergeant or higher; and

(c) One restricted member shall be a member of the civilian employees' retirement system of the police department of such city.

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 under the provisions of sections 86.1310 to 86.1640, 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) Any person elected to a restricted position on the retirement board who at the time of such election meets the qualifications for such position shall be deemed to continue to meet such qualifications throughout the term to which such person was elected, regardless of any change in the rank, classification or other employment status of such person.

3. 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.

4. Each member of the retirement board shall, within ten days after appointment or election, take an oath of office that such member will diligently and honestly administer the affairs of the board, and will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the police retirement system. Such oath shall be signed by the member and filed with the clerk of such city.

86.940. VOTING RIGHTS OF BOARD MEMBERS. — Each member of the retirement board shall be entitled to one vote in the decisions of the board. Five votes or more in favor shall be necessary to pass a motion by the retirement board at any meeting of the board.

86.950. BOARD TO ESTABLISH POLICIES — OFFICERS AND EMPLOYEES. — 1. Subject to the limitations of sections 86.900 to 86.1280, the retirement board shall from time to time establish policies 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.

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. The offices of secretary and of treasurer shall not be held by the same person. The retirement board 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 the retirement board is located.

86.951. BOARD DEEMED A STATE AGENCY — RULEMAKING AUTHORITY. — The retirement board shall be deemed to be a state agency within the meaning of chapter 536,

RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 86.900 to 86.1280 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

86.960. DATA AND RECORDS — ANNUAL REPORT — ACTUARIAL STUDY — APPOINTMENT OF A MEDICAL BOARD — COMMON SEAL. — 1. The retirement board shall keep in convenient form such data as is necessary for administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection.

2. The retirement board shall publish annually a statement reporting the operations of the retirement system for the year, including income and disbursements during the year and the financial condition of the retirement system at the end of the year, including actuarial valuation and valuations of its assets and liabilities as of April thirtieth of each year. Such statement shall be consistent with results reviewed and approved by independent certified public accountants selected by the board. One copy of the annual report shall be delivered to each member of the retirement board and each member of the board of police commissioners, and one copy shall be filed with the city clerk. Copies of the report shall be made conveniently available to each member of the retirement system.

3. The retirement board shall cause an actuarial study and calculation to be made annually based upon the experiences of the retirement system by an independent firm of pension actuaries.

4. The retirement board shall appoint a medical board of not more than three physicians, each of whom shall serve at the pleasure of the retirement board, to arrange for and conduct medical examinations as requested by the retirement board.

5. The retirement board shall adopt a common seal.

86.970. COMPENSATION OF BOARD MEMBERS. — The members of the retirement board shall be compensated in full for all services rendered under the provisions of sections 86.900 to 86.1280 at the rate of ten dollars per business session actually attended but no member shall be so compensated in an amount exceeding one hundred fifty dollars in any fiscal year regardless of the amount of services rendered or the number of business sessions actually attended. The members of the board shall be reimbursed from the funds of the police retirement system for all necessary expenses which they may incur on such board, in addition to their compensation for services.

86.980. 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 86.900, or as an employee, as defined in section 86.1310, 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.

86.990. BOARD TO CERTIFY AMOUNT TO BE PAID BY CITY, WHEN. — The retirement board shall before January tenth of each year certify to the chief financial officer of such city the amount to be paid by the city under the retirement pension system for the succeeding fiscal year, as otherwise provided by sections 86.900 to 86.1280.

86.1000. CONTRIBUTIONS TO PENSION FUND BY CITY — BOARD TO CERTIFY TO BOARD OF POLICE COMMISSIONERS AMOUNT REQUIRED. — 1. The city shall contribute to the pension fund quarter-annually or at such lesser intervals as may be agreed upon by the city and the retirement board. Such contribution shall be in addition to and separate from the appropriations made by the city for the operation of the police department. For each fiscal year of the operation of the pension system, the city's contribution to the pension fund shall be a percentage of the compensation paid to members of the pension system from which a member's deduction has been made under section 86.1010. The city's contribution shall be such percentage as shall be agreed upon by the board of police commissioners and the city, but in no event shall such contribution be less than twelve percent.

2. On or before the tenth day of January of each year the retirement board shall certify to the board of police commissioners the amount of money that will likely be required to comply with the provisions of this section during the next succeeding fiscal year including administration expenses. The amounts so certified shall be included by the board of police commissioners in their annual budget estimate, and shall be appropriated by the cities and transferred to the pension fund during the ensuing fiscal year.

86.1010. MEMBERS' RETIREMENT CONTRIBUTIONS, AMOUNT, HOW DETERMINED. — The board of police commissioners shall cause to be deducted from the compensation of each member until retirement a percentage of such member's compensation, which shall not be less than six percent, as determined by the retirement board, as such member's contribution to the pension fund. The sum so deducted shall be paid by the board of police commissioners promptly after each payroll to the retirement board to be credited to the member's account. Every member shall be deemed to consent to the deductions made and provided for herein. The board of police commissioners shall certify to the retirement board on every payroll the amount deducted, and such amounts shall be paid into the pension fund and shall be credited to the individual pension account of the member from whose compensation such deduction was made.

86.1020. BOARD TO ACT AS TRUSTEE OF CERTAIN FUNDS — POWERS OF THE BOARD. — 1. The retirement board shall act as trustee of the funds created by or collected under the provisions of sections 86.900 to 86.1280. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds, and as an intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer, and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 86.900 to 86.1280. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other properties. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and

400.8-117, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The retirement board may contract with a bank or trust company to act as the custodian of bonds and securities acquired by the board, in which case the retirement board may authorize such custodian bank or trust company to order purchases, loans or sales of investments by such custodian bank or trust company, and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans, or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment. The income from investments shall be credited to the funds of the retirement system at frequent intervals satisfactory to the retirement board. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, except as otherwise provided in this subsection. No order shall be drawn unless it shall have previously been allowed by a specific or an ongoing generalized resolution of the retirement board. In the case of payments for benefits, services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment other than payments to members or beneficiaries for benefits shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board.

4. Before assuming the duties of the office, the secretary and treasurer shall each be bonded for an amount determined by the retirement board at the cost of the retirement system, conditioned upon the faithful performance of the duties as such officer, and to account for all moneys, securities, and property which may come into their respective hands or under their respective control by virtue of such office, with a corporate surety duly licensed to transact business in this state. Such bonds shall be subject to the approval of the presiding judge of the circuit court of the county in which such cities are located.

86.1030. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY RETIREMENT SYSTEM FUNDS. — All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

86.1040. RETIREMENT BENEFITS NOT SUBJECT TO EXECUTION, GARNISHMENT, OR ATTACHMENT — TAX-EXEMPT STATUS OF FUNDS. — The right of any person to pension or pensions, to the return of contributions, disability or death benefits, or any other right accrued or accruing to any person under the provisions of sections 86.900 to 86.1280 and the moneys in the various funds created under sections 86.900 to 86.1280 shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as specifically provided in sections 86.900 to 86.1280, and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.900 to 86.1280. The moneys in the various funds created under sections 86.900 to 86.1280 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof. A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment shall not be deemed an assignment prohibited under this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.

86.1050. CRIMINAL LIABILITY NOT LIMITED BY RETIREMENT SYSTEM LAWS. — Nothing contained in sections 86.900 to 86.1280 shall in any way limit the criminal liability of any person subject to prosecution under any law which is now or may hereafter be in force. Should any change or error in records result in any member or beneficiary receiving from the pension system more or less than such person would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payments in such a manner that the benefit to which said member or beneficiary was correctly entitled shall be paid.

86.1060. BOARD MAY SUE AND BE SUED — SERVICE OF PROCESS, PROCEDURE. — 1. The retirement board may sue and be sued in its own name. Such suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.

2. Service of process on the retirement board shall be sufficient if ten copies of the pleading or other document to be served shall be served upon the secretary of the retirement board at the principal office of the retirement system during business hours.

86.1070. FINDINGS OF THE BOARD — REVIEW. — 1. In any hearing conducted by the retirement board, the board's findings on all issues of fact shall be final and conclusive upon all parties concerned when such findings are supported by competent and substantial evidence.

2. Any ruling of the retirement board on a question of law and whether the same is supported by substantial evidence shall, at the option of the plaintiff, be reviewed upon application of any party by the circuit court of Cole County, or in the county of the residence of the plaintiff or one of the plaintiffs, or in the county in which the principal office of the retirement system is located.

86.1080. PURCHASE OF INSURANCE POLICIES PERMITTED — INDEMNIFICATION — EXPENSES OF COURT PROCEEDINGS MAY BE PAID, 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 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 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 the person in connection with such action, suit, or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe 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 the person did not have reasonable cause to believe that the relevant conduct was lawful.

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 subsections 1 and 2 of this section, or in defense of any claim, issue, or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit, or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under 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 any person potentially entitled to indemnification hereunder is proper in the circumstances because 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 and 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.

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 person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.

86.1090. MEMBERSHIP OF PERSONS ENTERING OR REENTERING THE FORCE AFTER EFFECTIVE DATE OF RETIREMENT SYSTEM. — 1. All persons who enter or reenter the service of the such cities as police officers for compensation after the date this police retirement system becomes effective, shall become members thereof as a condition of their employment.

2. Members of the police retirement system shall receive no retirement or pension allowance from any other retirement or pension system supported wholly or in part by such cities or the state of Missouri, nor shall they be required to make contributions under any other retirement or pension system of such cities or the state.

3. Nothing in sections 86.900 to 86.1280 shall be construed to prevent the inauguration of the federal Social Security laws for police officers, nor to prevent the contribution to such Social Security administration or fund established by the federal government, nor by it the pensioning of such police officers. In the event that federal Social Security benefits are made available to police officers covered by sections 86.900 to 86.1280, then any benefits payable to any member or the dependents of such member under sections 86.900 to 86.1280 shall be in addition to the amount of such Social Security benefits, and any contributions required by a member under this section shall be in addition to the amount of such member's contribution under such Social Security system.

86.1100. CREDITABLE SERVICE, BOARD TO FIX AND DETERMINE BY RULE. — 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period of more than thirty consecutive days during which the member was absent without compensation, except as provided in subsection 3 of section 86.1140.

2. Creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.900 to 86.1280.

4. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF. — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Any member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided 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, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

86.1120. TERMINATION OF MEMBERS AFTER FIVE OR MORE YEARS OF SERVICE, CREDIT TOWARDS RETIREMENT. — Members who terminate membership with five years or more of creditable service and later return to membership may be given credit toward

retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.

86.1130. MEMBERSHIP, TERMINATED WHEN. — Each person who becomes a member of the police retirement system under the provisions of sections 86.900 to 86.1280 shall remain a member until the earliest to occur of the following events:

(1) The termination of service of such person and the payment to such person of all benefits due such person under the provisions of sections 86.900 to 86.1280; or

(2) The death of such person.

86.1140. LEAVE OF ABSENCE NOT TO ACT AS TERMINATION OF MEMBERSHIP — CREDITABLE SERVICE PERMITTED, WHEN. — 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, such member shall receive creditable service for such time.

3. If a member is on leave of absence for more than thirty consecutive days without compensation, such member shall not receive service credits for such time unless such member shall, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence.

86.1150. RETIREMENT AGE — BASE PENSION AMOUNT. — 1. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in section 86.1100, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service. Such pension shall not exceed seventy-five percent of the member's final compensation.

2. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age or over to remain in service until such member reaches the age of sixty-five years. Such member shall continue to make contributions and receive credit for service until reaching sixty-five years of age, until retirement, or until completion of thirty years of creditable service, whichever occurs first. If such member shall reach sixty-five years of age or shall retire prior to completion of

twenty-five years of service, the base pension of such member shall be calculated under subsection 3 of this section.

3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.900 multiplied by the number of years of such member's total creditable service.

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension beginning at the age of fifty-five, if then living, equal to:

(1) For a member whose service so terminates prior to August 28, 2001, two percent of such member's final compensation multiplied by the number of years of such member's creditable service; or

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1160. TERMINATION OF MEMBERSHIP PRIOR TO DEATH OR RETIREMENT, EFFECT OF. — Whenever a member's service is terminated for any reason prior to death or retirement and such member has less than fifteen years of creditable service, or a member's service is terminated after conviction of a felony, or a member's service is terminated for any reason and such member requests the withdrawal of all such member's accumulated contributions to the retirement system, such member shall be paid the amount of such member's accumulated contributions in one lump sum, without interest, and such payment shall be in lieu of any and all other benefits to which such member or any beneficiary or survivor thereof might otherwise be or become entitled under sections 86.900 to 86.1280.

86.1170. PENSION BENEFIT AFTER 25 YEARS OF SERVICE OR INJURY IN LINE OF DUTY, WHEN. — Any member who retires after August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either has at least twenty-five years of creditable service or is retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall receive a pension benefit which, without including any supplemental retirement benefits paid such member by the retirement system, shall be not less than six hundred dollars monthly. Any member who retired on or before August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either had at least twenty-five years of creditable service or was retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall upon application to the retirement board be appointed by the retirement board as a consultant and shall, beginning the later of August 28, 2000, or the time of such appointment under this section or a previously applicable statute, be compensated in an amount which, without including

any supplemental retirement benefits provided by this system, shall be not less than six hundred dollars monthly. A pension benefit under this section shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this section shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

86.1180. PERMANENT DISABILITY CAUSED BY PERFORMANCE OF DUTY, RETIREMENT BY BOARD OF POLICE COMMISSIONERS PERMITTED — BASE PENSION AMOUNT — CERTIFICATION OF DISABILITY. — 1. Any member who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate, and exclusive result of an accident occurring within the actual performance of duty at some definite time and place or through an occupational disease arising exclusively out of and in the course of his or her employment shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to seventy-five percent of his or her final compensation for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a disability beneficiary. Such pension may be subject to offset or reduction under section 86.1190 by amounts paid or payable under any workers' compensation law.

3. Once each year during the first five years following his or her retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is restored to active service, such member shall contribute to this retirement system thereafter at the same rate as other members. Upon subsequent retirement, such member shall be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

6. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is not restored to active service, such member shall be entitled to the retirement benefit to which such member would have been entitled if such member had terminated service at the time of such cessation of the disability pension. For the purpose of such retirement benefits, such former disability beneficiary will be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

86.1190. WORKERS' COMPENSATION BENEFIT PAYMENTS, OFFSET AGAINST RETIREMENT BENEFITS, EXCEPTIONS — MEMBER'S PERCENTAGE DEFINED. — 1. Any periodic payment, excluding payments for medical treatment, which may be paid or payable by cities under 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 cities under the provisions of sections 86.900 to 86.1280 on account of the same disability or death; except that, amounts payable under subsection 1 of section 86.1250 and section 86.1260 shall not be offset or reduced by any amount paid or payable under any workers' compensation or similar law. However, in no event shall the amount paid from funds under the provisions of sections 86.900 to 86.1280 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.900 to 86.1280, other than under subsection 1 of section 86.1250 and section 86.1260 and 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 under 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 cities under the provisions of sections 86.900 to 86.1280 on account of the same disability or death; except that, amounts payable under subsection 1 of section 86.1250 and section 86.1260 shall not be offset or reduced by any amounts paid or payable under any workers' compensation or similar law. The amount by which each periodic payment made under the provisions of sections 86.900 to 86.1280 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. However, in no event shall the amount paid from funds under the provisions of sections 86.900 to 86.1280 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.900 to 86.1280, other than under subsection 1 of section 86.1250 and section 86.1260 and before any offset for workers' compensation benefits.

3. 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 under section 86.1010 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of the percentages of a member's compensation contributed by a working member under section 86.1010 and the city under section 86.1000 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.900 to 86.1280 which is deemed to have been provided by the member's own contributions.

86.1200. PERMANENT DISABILITY NOT CAUSED BY PERFORMANCE OF DUTY, TEN YEARS OF CREDITABLE SERVICE, RETIREMENT PERMITTED — BASE PENSION AMOUNT — CERTIFICATION OF DISABILITY. — 1. Any member who has completed ten or more years of creditable service and who has become permanently unable to perform the full and unrestricted duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the

member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to two and one-half percent of final compensation multiplied by the number of years of creditable service. Such pension shall be paid for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a nonduty disability beneficiary.

3. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board. If any nonduty disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination, his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a nonduty disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs in the report, then such beneficiary's nonduty disability pension shall cease.

86.1210. RETIREMENT AFTER TWENTY-SIX YEARS — PARTIAL LUMP SUM OPTION PLAN DISTRIBUTION AUTHORIZED. — 1. Any member entitled to commence a pension under section 86.1150 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 thereof and requests an explanation of the member's rights under 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 under this section, 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 under 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 under this section.

2. (1) A member entitled to make an election under this section may elect to receive a lump sum distribution with the member's initial monthly pension payment under section 86.1150, 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 under 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 under 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 under this section.

(2) When a member makes an election to receive a lump sum distribution under 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 under sections 86.900 to 86.1280.

3. An election under this section to receive a lump sum distribution and reduced monthly base pension shall be void if the member dies before retirement, and in such case amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.

86.1220. COST-OF-LIVING ADJUSTMENTS IN ADDITION TO BASE PENSION. — 1. Provided that the retirement system shall remain actuarially sound, each of the following persons may receive each year, in addition to such person's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such person's base pension during any one year:

(1) Every member who is retired and receiving a base pension from the retirement system;

(2) Every surviving spouse who is receiving a base pension from the retirement system; and

(3) Every child who, under subsection 2 of section 86.1250, is receiving the benefit, or a portion thereof, which would be payable to a surviving spouse of the member who was such child's parent.

2. Upon the death of a member who has been retired and receiving a pension and who dies after September 28, 1987, the surviving spouse of such member entitled to receive a base pension under section 86.1240 or children of such member entitled to receive a base pension under subsection 2 of section 86.1250 shall receive an immediate percentage cost-of-living adjustment to their respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime under this section, except that the adjustment provided by this subsection shall not be made to a base pension calculated under either subdivision (1) or subdivision (2)(b) of subsection 2 of section 86.1240, either for a surviving spouse or for a child or children entitled to a base pension measured by the pension to which a qualified surviving spouse would be entitled, wherein such base pension is determined by a percentage of the amount being received by the deceased member at death.

3. For purposes of this section, the term "base pension" shall mean:

(1) For a member, the pension computed under the provisions of the law as of the date of retirement without regard to cost-of-living adjustments, as adjusted, if applicable, for any election made under section 86.1210, but in all events not including any supplemental benefit under section 86.1230;

(2) For a surviving spouse, the base pension calculated for such spouse in accordance with the provisions of section 86.1240, including any compensation as a consultant to which such surviving spouse is entitled under said section in lieu of a pension thereunder, but not including any supplemental benefit under section 86.1230; and

(3) For a member's surviving child who is entitled to receive part or all of the pension which would be received by the surviving spouse, if living, the base pension calculated for such surviving spouse in accordance with the provisions of section 86.1240, including any compensation as a consultant to which such spouse would be entitled under said section, if living, divided by the number of surviving children entitled to share in such pension under subsection 2 of section 86.1250.

4. The cost-of-living adjustment shall be an increase or decrease computed on the base pension amount by the retirement board in an amount that the board, in its

discretion, determines to be satisfactory, but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension. In determining and granting the cost-of-living adjustments, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board, and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year and to the surviving spouse or applicable children of a member who has died during the year prior to such adjustments.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement system ceases to be actuarially sound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

6. If any benefit under subsection 1 of section 86.1250 on August 27, 2005, would be reduced by application of this section, such benefit shall continue thereafter without reduction, but any benefit so continued shall terminate at the time prescribed in subsection 1 of section 86.1250.

86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1240. PENSIONS OF SPOUSES OF DECEASED MEMBERS. — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection 6 of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after commencement of benefits to such member from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection 6 of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.1220. The pension provided by this

subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after commencement of benefits to such member from this retirement system, such member's surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5. Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall not be less than six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be not less than six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

6. Any beneficiary of benefits under sections 86.900 to 86.1280 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

86.1250. PENSIONS OF CHILDREN OF DECEASED MEMBERS. — 1. (1) Upon the death of a member in service or after retirement and commencement of benefits, such member's child or children under the age of eighteen years at the time of the member's death shall be paid fifty dollars per month each 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 under this section 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.

(2) 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. 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.

(3) Notwithstanding any other law to the contrary, amounts payable under subdivisions (1) or (2) of this subsection shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

2. Upon or after the death of a member in service or after retirement and commencement of benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, 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 of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement and commencement of benefits, a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

4. 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, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.

86.1260. PENSIONS OF SPOUSE AND CHILDREN OF MEMBER WHO DIED IN PERFORMANCE OF DUTY. — 1. Upon the receipt of the proper proof that the death of a member in service was the natural and proximate result of an event occurring within the performance of duty or of an occupational disease arising out of and in the course of such member's employment, there shall be paid to the surviving spouse, or if there be no surviving spouse, then to the child or children of such member under the age of twenty-one years and those, if any, over the age of twenty-one years if mentally or physically incapacitated from wage earning, in equal shares or divided between or among them as the retirement board in its sole discretion shall direct, the sum of fifty thousand dollars.

2. If a member dies in such manner that a surviving spouse or child would be entitled to benefits under this section but there is no surviving spouse or child eligible to receive payments under this section, no payments under this section shall be paid.

3. Notwithstanding any other law to the contrary, amounts payable under this section shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

86.1270. RETIREMENT PLAN DEEMED QUALIFIED PLAN UNDER FEDERAL LAW — BOARD TO ADMINISTER PLAN AS A QUALIFIED PLAN — VESTING OF BENEFITS — DISTRIBUTIONS — DEFINITIONS. — 1. A retirement plan under sections 86.900 to 86.1280 is a qualified plan under the provisions of applicable federal law. The benefits and conditions of a retirement plan under sections 86.900 to 86.1280 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer the retirement system in a manner as to retain at all times qualified status under Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of the 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 86.900 to 86.1280.

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 under sections 86.900 to 86.1280 or any partial termination which affects the members 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 under sections 86.900 to 86.1280 in excess of the benefit limits applicable to the fund under 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 the 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 under Section 415 of the Internal Revenue Code,

the benefits the member would otherwise receive from the 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 the 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 under 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 86.900 to 86.1280, 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 86.900 to 86.1280. 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 upon providing direction to the secretary of this retirement system regarding the 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 under 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 the 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.

86.1280. EARLY RETIREMENT INCENTIVES, EFFECT OF. — 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 the retirement system under sections 86.900 to 86.1280, in addition to such other benefits as such members or their beneficiaries are entitled to

receive under sections 86.900 to 86.1280, provided such city shall so request and shall agree to increase the city's contribution under section 86.1000 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 86.1010, to provide all other benefits provided under sections 86.900 to 86.1280.

86.1310. DEFINITIONS. — The following words and phrases as used in sections 86.1310 to 86.1640 shall have the following meanings unless a different meaning is plainly required by the context:

(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 86.1310 to 86.1640, in all cases with interest thereon at a rate determined from time to time for such purpose by the retirement board;

(2) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.1310 to 86.1640;

(3) "Board of police commissioners", the board composed of police commissioners 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, or any city that has made an election under section 86.1320 to continue a civilian employees' retirement system theretofore maintained under sections 86.1310 to 86.1640;

(5) "Compensation", the basic wage or salary paid a member for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(6) "Consultant", unless otherwise specifically defined, means a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, 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 needed by the board;

(7) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.1310 to 86.1640 by meeting the requirements specified in such sections, or section 105.691, RSMo;

(8) "Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is not eligible to receive a pension from the police retirement system of said city;

(9) "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. 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", 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;

(12) "Member", a member of the civilian employees retirement system as described in section 86.1480;

(13) "Pension", annual payments for life, payable monthly, beginning with the date of retirement or other applicable commencement date and ending with death;

(14) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.1310 to 86.1640 and by the members of the civilian employees retirement system;

(15) "Retirement", termination of a member's status as an employee of the police department of the city at a time when the member or the member's beneficiary is immediately entitled to one or more benefits under sections 86.1310 to 86.1640;

(16) "Retirement board" or "board", the board provided in section 86.1330 to administer the retirement system;

(17) "Retirement system", the civilian employees' retirement system of the police department of the cities as defined in section 86.1320;

(18) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.1310 to 86.1640 by reason of surviving a member, shall include only:

(a) The person who was married to the member at the time of the member's death in service prior to August 28, 2001, and who had not remarried prior to August 28, 2001;

(b) The person who was married to the member at the time of the member's death in service on or after August 28, 2001;

(c) In the case of any member who both retired and died prior to August 28, 2001, the person who was married to the member at the time of the member's death and who had not remarried prior to August 28, 2001;

(d) In the case of any member who retired prior to August 28, 2001, and died on or after that date, the person who was married to the member at the time of the member's death; or

(e) In the case of any member who retired on or after August 28, 2001, the person who was married to the member at both the time of the member's retirement and the time of the member's death.

86.1320. SYSTEM ESTABLISHED — CONTINUATION OF SYSTEM AFTER POPULATION INCREASE, WHEN — NAME OF SYSTEM. — In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for civilian employees of police departments of such cities. Any city which has established a civilian employees' retirement system under the provisions of sections 86.600 to 86.790 or sections 86.1310 to 86.1640 may elect to continue its civilian employees' retirement system under the provisions of sections 86.1310 to 86.1640 even though the city may cease to have the population described in this section, and any city so electing to continue its established civilian employees' retirement system shall be excused from creating or maintaining any other civilian employees' retirement system under any other provisions of the Missouri statutes. Each system shall be under the management of a retirement board to be known as the "Civilian Employees' Retirement System of the Police Department of (name of city)," and by such name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation on October 13, 1965, on which date contributions of employees shall be payable to the pension fund.

86.1330. RETIREMENT BOARD ESTABLISHED, MEMBERS, DUTIES — FUNDS RECEIVED, DUTIES — OATH OF BOARD MEMBERS REQUIRED. — 1. There shall be a retirement board whose members shall serve without compensation but shall be reimbursed from the pension fund for any necessary expenses which they may incur for service on the board. The board shall adopt policies for the administration of the affairs of the retirement

system. The members of the retirement board for the civilian employees' retirement system herein enacted shall be the same as the members of the retirement board for police officers as provided in section 86.930 and upon election or appointment as provided in section 86.930, shall be vested with full authority to administer the retirement system provided in sections 86.1310 to 86.1640, and shall be vested with full authority to do all things necessary and required herein; but all funds received for the administration of the retirement system shall be kept separately and not commingled with funds included in retirement systems provided in sections 86.900 to 86.1280. The members of the retirement system provided in sections 86.1310 to 86.1640 and a surviving spouse receiving benefits from the retirement system shall be entitled to vote in the election of elected members of the retirement board as provided in section 86.930.

2. Each member of the retirement board shall, within ten days after appointment or election, take an oath of office that such member will diligently and honestly administer the affairs of such board, and will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the civilian employees' retirement system. Such oath shall be signed by the member and filed with the clerk of such city.

86.1350. VOTING BY BOARD, VOTES NECESSARY TO PASS A MOTION. — Each member of the retirement board shall be entitled to one vote in the decisions of the board. Five votes or more in favor shall be necessary to pass a motion by the retirement board at any meeting of the board.

86.1360. ADMINISTRATION OF ASSETS AND TRANSACTION OF BUSINESS, BOARD TO SET POLICIES — RULEMAKING AUTHORITY — OFFICERS TO BE ELECTED, EMPLOYMENT OF STAFF. — 1. Subject to the limitations of sections 86.1310 to 86.1640, the retirement board shall, from time to time, establish policies 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. The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

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. The offices of secretary and of treasurer shall not be held by the same person. 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 the retirement board is located.

86.1370. DATA TO BE MAINTAINED BY BOARD — ANNUAL STATEMENT REQUIRED — ACTUARIAL STUDY AND CALCULATION REQUIRED — MEDICAL BOARD TO BE APPOINTED — SEAL TO BE ADOPTED. — 1. The retirement board shall keep in convenient form such data

as is necessary for administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection.

2. The retirement board shall publish annually a statement reporting the operations of the retirement system for the year, including income and disbursements during the year and the financial condition of the retirement system at the end of the year, including actuarial valuation and valuations of its assets and liabilities as of April thirtieth of each year. Such statement shall be consistent with results reviewed and approved by independent certified public accountants selected by the board. One copy of the annual report shall be delivered to each member of the retirement board and each member of the board of police commissioners, and one copy shall be filed with the city clerk. Copies of the report shall be made conveniently available to each member of the retirement system.

3. The retirement board shall cause an actuarial study and calculation to be made annually based upon the experiences of the retirement system by an independent firm of pension actuaries.

4. The retirement board shall appoint a medical board of not more than three physicians, each of whom shall serve at the pleasure of the retirement board, to arrange for and conduct medical examinations as requested by the retirement board.

5. The retirement board shall adopt a common seal.

86.1380. CERTIFICATION BY THE BOARD TO THE CITY FOR AMOUNT TO BE PAID TO THE RETIREMENT SYSTEM. — The retirement board shall before January tenth of each year certify to the chief financial officer of such city the amount to be paid by the city to the retirement pension system for the succeeding fiscal year, as otherwise provided by sections 86.1310 to 86.1640.

86.1390. CONTRIBUTIONS TO RETIREMENT SYSTEM BY CITIES, AMOUNT. — The cities specified in sections 86.1310 to 86.1640 shall contribute to the retirement pension system such an amount as may be necessary to pay the pensions as they accrue from year to year, and such additional amounts as may be necessary to maintain the system on a sound actuarial basis as determined by the retirement board and certified as provided in section 86.1380.

86.1400. EMPLOYEE CONTRIBUTIONS TO BE DEDUCTED FROM COMPENSATION — PAYMENT BY BOARD OF POLICE COMMISSIONERS. — The board of police commissioners shall cause to be deducted from the compensation of each member until retirement a percentage of such member's compensation, which shall not be less than five percent, as determined by the retirement board, as such member's contribution to the pension fund. The sum so deducted shall be paid by the board of police commissioners promptly after each payroll to the retirement board to be credited to the member's account. Every member shall be deemed to consent to the deductions made and provided for herein. The board of police commissioners shall certify to the retirement board on each payroll the amount deducted, and such amounts shall be paid into the pension fund and shall be credited to the individual pension account of the member from whose compensation such deduction was made.

86.1410. BOARD TO BE TRUSTEE OF FUNDS — POWERS AND DUTIES. — 1. The retirement board shall act as trustee of the funds created by or collected under the provisions of sections 86.1310 to 86.1640. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and as an intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer, and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 86.1310 to 86.1640. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other properties. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-117, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The retirement board may contract with a bank or trust company to act as the custodian of bonds and securities acquired by the board, in which case the retirement board may authorize such custodian bank or trust company to order purchases, loans, or sales of investments by such custodian bank or trust company, and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans, or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment. The income from investments shall be credited to the funds of the retirement system at frequent intervals satisfactory to the retirement board. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, except as otherwise provided in this subsection. No order shall be drawn unless it shall have previously been allowed by a specific or an ongoing generalized resolution of the retirement board. In the case of payments for benefits, services, supplies, or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment other than payments to members or beneficiaries for benefits shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board.

4. Before assuming the duties of office, the secretary and treasurer shall each be bonded for an amount determined by the retirement board at the cost of the retirement system, conditioned upon the faithful performance of the duties as such officer, and to account for all moneys, securities, and property which may come into their respective hands or under their respective control by virtue of such office, with a corporate surety duly licensed to transact business in this state. Such bonds shall be subject to the approval of the presiding judge of the circuit court of the county in which such cities are located.

86.1420. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY SYSTEM FUNDS. — All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

86.1430. RETIREMENT BENEFITS NOT SUBJECT TO EXECUTION, GARNISHMENT, OR ATTACHMENT — EXCEPTIONS — FUNDS EXEMPT FROM TAXATION. — The right of any

person to pension or pensions, to the return of contributions, disability or death benefits, or any other right accrued or accruing to any person under the provisions of sections 86.1310 to 86.1640 and the moneys in the various funds created under sections 86.1310 to 86.1640 shall not be subject to execution, garnishment, attachment, or any other process whatsoever and shall be unassignable except as specifically provided in sections 86.1310 to 86.1640, and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.1310 to 86.1640. The moneys in the various funds created under sections 86.1310 to 86.1640 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof. A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment shall not be deemed an assignment prohibited under this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.

86.1440. CRIMINAL LIABILITY NOT LIMITED BY STATUTORY PROVISIONS — CORRECTION OF BENEFIT ERRORS BY THE BOARD. — Nothing contained in sections 86.1310 to 86.1640 shall in any way limit the criminal liability of any person subject to prosecution under any law which is now or may hereafter be in force. Should any change or error in records result in any member or beneficiary receiving from the pension system more or less than such person would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payments in such a manner that the benefit to which said member or beneficiary was correctly entitled shall be paid.

86.1450. BOARD MAY SUE AND BE SUED — SERVICE OF PROCESS, PROCEDURE. — 1. The retirement board may sue and be sued in its own name. Such suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.

2. Service of process on the retirement board shall be sufficient if ten copies of the pleading or other document to be served shall be served upon the secretary of the retirement board at the principal office of the retirement system during business hours.

86.1460. FINDINGS OF BOARD FINAL AND CONCLUSIVE — JUDICIAL REVIEW. — 1. In any hearing conducted by the retirement board, the board's findings on all issues of fact shall be final and conclusive upon all parties concerned, when such findings are supported by competent and substantial evidence.

2. Any ruling of the retirement board on a question of law and whether the same is supported by substantial evidence shall, at the option of the plaintiff, be reviewed upon application of any party by the circuit court of Cole County, or in the county of the residence of the plaintiff or one of the plaintiffs, or in the county in which the principal office of the retirement system is located.

86.1470. BOARD MAY PURCHASE LIABILITY INSURANCE — INDEMNIFICATION, 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 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 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 the person in connection with such action, suit, or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe 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 the person did not have reasonable cause to believe that the relevant conduct was lawful.

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 subsections 1 and 2 of this section, or in defense of any claim, issue, or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit, or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under 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 any person potentially entitled to indemnification hereunder is proper in the circumstances because 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 and 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.

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 person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.

86.1480. WHO SHALL BE MEMBERS. — 1. Every person who becomes an employee, as defined in subdivision (8) of section 86.1310, after August 28, 2001, shall become a member of the retirement system defined in sections 86.1310 to 86.1640 as a condition of such employment.

2. Every person who was a member of the retirement system on or before August 28, 2001, shall remain a member.

3. Every person who was an employee, as defined in subdivision (8) of section 86.1310, on August 28, 2001, but was not a member, shall become a member as a condition of employment upon the completion of six months continuous employment.

86.1490. CREDITABLE SERVICE, INCLUSIONS AND EXCLUSIONS. — 1. Creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member for which such member received compensation since such member last became a member.

2. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

3. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Any member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided 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, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

86.1510. MEMBERS ENTITLED TO PRIOR CREDITABLE SERVICE, WHEN. — Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the

accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.

86.1520. DURATION OF MEMBERSHIP. — Each person who becomes a member of the civilian employees' retirement system under the provisions of sections 86.1310 to 86.1640 shall remain a member until the earliest to occur of the following events:

(1) The termination of service of such person and the payment to such person of all benefits due such person under the provisions of sections 86.1310 to 86.1640; or

(2) The death of such person.

86.1530. NORMAL RETIREMENT DATES. — The normal retirement date of a member shall be the later of the date such member attains the age of sixty-five years, or the tenth anniversary of such member's employment.

86.1540. NORMAL PENSION, AMOUNT — EARLY RETIREMENT OPTION, WHEN — ELECTION FOR OPTIONAL BENEFIT FOR SPOUSE — PENSION AFTER FIVE YEARS OF CREDITABLE SERVICE — PAYMENTS, MADE WHEN — FELONY CONVICTION, EFFECT OF. — 1. (1) Upon retirement on or after a member's normal retirement date, such member shall receive a base pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

(2) Such member may elect to receive a different base pension under an election permitted under this section or section 86.1580.

2. Members may elect early retirement as follows:

(1) Beginning at age fifty-five, if the member has completed at least ten years of creditable service or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty, if the member has completed at least five but not more than ten years of creditable service or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty-five; or

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction.

If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.

3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: Such optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1)

of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.

(2) If a member who makes the election permitted by this subsection also makes an election permitted under section 86.1580, such optional benefit shall be reduced as provided in subdivision (3) of subsection 2 of section 86.1580.

(3) If a member makes the election permitted by this subsection, the amount calculated for such optional benefit under either subdivision (1) or (2) of this subsection shall be the base pension for such member and for such member's spouse for all purposes of sections 86.1310 to 86.1640.

(4) An election for an optional benefit under this subsection shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

4. Subject to the provisions of subsection 7 of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted under subsection 2 of this section shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable under the subdivision of subsection 2 of this section upon which such member relies in electing the commencement of such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310 to 86.1640.

5. A member whose service was terminated on or before August 28, 1999, after five or more years of creditable service, and who permitted such member's accumulated contributions to remain in the pension fund, shall upon application to the retirement board be appointed as a consultant. For services as such consultant, such member shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be entitled to elect to receive compensation in such amount and commencing at such time as such member would have been entitled to elect under any of the provisions of subsection 4 of this section if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the

commencement of such compensation as if such member's compensation had been a base pension.

6. All payments of any pension shall be paid on the first day of each month for that month. The first payment shall be paid on the first day of the first month in which the member's benefit can be determined and processed for payment, and shall include benefits from the date of retirement to the date of such first payment. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs.

7. Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1550. TERMINATION OF EMPLOYMENT PRIOR TO FIVE YEARS OF CREDITABLE SERVICE, LUMP-SUM PAYMENT. — Whenever a member's service is terminated for any reason prior to death or retirement and such member has less than five years of creditable service, or a member's service is terminated after conviction of a felony, or a member's service is terminated for any reason and such member requests the withdrawal of all such member's accumulated contributions to the retirement system, such member shall be paid the amount of such member's accumulated contributions in one lump sum and such payment shall be in lieu of any and all other benefits to which such member or any beneficiary or survivor thereof might otherwise be or become entitled under sections 86.1310 to 86.1640.

86.1560. DISABILITY RETIREMENT PENSION, AMOUNT — DEFINITIONS — BOARD TO DETERMINE DISABILITY, PROOF MAY BE REQUIRED. — 1. A member who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

(1) Duty disability, fifty percent of final compensation as of the date of disability;

(2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;

(3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3. For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

(1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;

(2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;

(3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

4. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive.

The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

5. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

86.1570. OFFSET TO WORKERS' COMPENSATION PAYMENTS — MEMBER'S PERCENTAGE DEFINED. — 1. Any periodic payment, excluding payments for medical treatment, which may be paid or payable by cities under 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 cities under the provisions of sections 86.1310 to 86.1640 on account of the same disability or death. However, in no event shall the amount paid from funds under the provisions of sections 86.1310 to 86.1640 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.1310 to 86.1640, before any offset for workers' compensation benefits.

2. Any lump sum amount, excluding payments for medical treatments, which may be paid or payable by cities under 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 cities under the provisions of sections 86.1310 to 86.1640 on account of the same disability or death. The amounts by which each periodic payment made under the provisions of sections 86.1310 to 86.1640 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. However, in no event shall the amount paid from funds under the provisions of sections 86.1310 to 86.1640 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.1310 to 86.1640, before any offset for workers' compensation benefits.

3. 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 under section 86.1400 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 under section 86.1400 and the city under section 86.1390 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.1310 to 86.1640 which is deemed to have been provided by the member's own contributions.

86.1580. OPTIONAL DISTRIBUTION UNDER PARTIAL LUMP-SUM OPTION PLAN, WHEN — DEATH BEFORE RETIREMENT, EFFECT OF. — 1. Any member in active service entitled to commence a pension under section 86.1540 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 thereof and requests an explanation of the member's rights under 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, the retirement system shall, at least sixty days in advance of such retirement date, provide the member a written explanation of such member's rights under 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 under this section.

2. (1) A member entitled to make an election under this section may elect to receive a lump sum distribution with the member's initial monthly pension payment under section 86.1540, 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 one or more years of creditable service after the 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 under this section;

(b) A member having two or more years of creditable service after the 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 under this section; or

(c) A member having three or more years of creditable service after the 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 under 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 under section 86.1540.

(2) When a member makes an election to receive a lump sum distribution under 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 under sections 86.1310 to 86.1640, unless the member has also elected an optional benefit permitted under subsection 3 of section 86.1540.

(3) If a member electing a lump sum distribution under this section has elected the optional benefit permitted under subsection 3 of section 86.1540, the calculation of the member's pension shall be made in the following order:

(a) The amount of the member's normal pension under subdivision (1) of subsection 1 of section 86.1540 shall be reduced if applicable by any reductions required under subsection 2 of section 86.1540;

(b) The amount of the pension as determined under paragraph (a) of this subdivision shall be reduced to the actuarially equivalent amount to produce the optional form of benefit described in subdivision (1) of subsection 3 of section 86.1540;

(c) The amount of reduced pension as determined under 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 under this section and a remaining monthly annuity which shall be paid on the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on this annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage.

3. An election under this section to receive a lump sum distribution and reduced monthly base pension shall be void if the member dies before retirement, in which case amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.

86.1590. COST-OF-LIVING ADJUSTMENTS — BASE PENSION DEFINED. — 1. Provided that the retirement system shall remain actuarially sound, each of the following persons may receive each year, in addition to such person's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such person's base pension during any one year:

(1) Every member who is retired and receiving a base pension from this retirement system; and

(2) Every surviving spouse who is receiving a base pension from this retirement system.

2. Upon the death of a member who has been retired and receiving a pension, and who dies after August 28, 2001, the surviving spouse of such member entitled to receive a base pension under section 86.1610 shall receive an immediate percentage cost-of-living adjustment to his or her base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime under this section, but such adjustment shall not be deemed to change the base pension amount to which subsequent cost-of-living adjustments may be made.

3. For purposes of this section, the term "base pension" shall mean:

(1) For a member, the pension computed under the provisions of the law as of the date of retirement without regard to cost-of-living adjustments, as adjusted if applicable, for any optional elections made under sections 86.1540 and 86.1580, but in all events not including any supplemental benefit under section 86.1600;

(2) For a surviving spouse whose pension is prescribed by section 86.1610, the base pension calculated for such spouse in accordance with the provisions of section 86.1610, including any compensation as a consultant to which such surviving spouse is entitled under said section in lieu of a pension, but not including any supplemental benefit under section 86.1600;

(3) For a surviving spouse entitled to the continuation of an optional benefit elected under subsection 3 of section 86.1540, the base pension determined in accordance with subdivision (3) of subsection 3 of section 86.1540.

4. The cost-of-living adjustment shall be an increase or decrease computed on the base pension amount by the retirement board in an amount that the board, in its discretion, determines to be satisfactory, but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension. In determining and granting the cost-of-living adjustments, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board, and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year and to the surviving spouse of a member who has died during the year prior to such adjustments.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement system ceases to be actuarially sound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1600. SUPPLEMENTAL RETIREMENT BENEFIT, AMOUNT, COST-OF-LIVING ADJUSTMENTS — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENTS, RULEMAKING AUTHORITY — MEMBER DEFINED. — 1. Any member who retires subsequent to August 28, 1997, with entitlement to a pension under sections 86.1310 to 86.1640, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving

spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1610. DEATH OF MEMBER IN SERVICE, BENEFIT TO BE RECEIVED — DEATH OF MEMBER AFTER RETIREMENT, BENEFIT TO BE RECEIVED — SURVIVING SPOUSE BENEFITS — PAYMENTS TO DESIGNATED BENEFICIARIES, WHEN. — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, the following amounts shall be payable subject to subsection 4 of this section, and if a pension shall be elected, the initial amount thereof shall be the base pension for such surviving spouse:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in one lump sum, the amount of the member's accumulated contributions. If there is no surviving spouse, the member's accumulated contributions shall be paid to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate, and such payment shall be full and final settlement for all amounts due from the retirement system with respect to such member except as provided in subsection 1 of section 86.1620;

(2) If the member has at least five but fewer than twenty years of creditable service, the member's surviving spouse may elect the lump sum settlement in subdivision (1) of this subsection or a pension. Such pension shall be fifty percent of the member's accrued pension at date of death as computed in subdivision (1) of subsection 1 of section 86.1540, commencing on the later of the day after the member's death, or the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540;

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect any one of:

(a) The lump sum settlement in subdivision (1) of this subsection;

(b) The pension as computed in subdivision (2) of this subsection; or

(c) A pension in the monthly amount 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 first payment of the retirement pension shall be deemed to be a death prior to retirement;

(5) For the surviving spouse of a member who died in service after August 28, 2001, benefits payable under subsection 1 of this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

2. Upon death of a member after retirement who has not elected the optional annuity permitted under subsection 3 of section 86.1540, the surviving spouse shall receive a base pension payable for life, equaling fifty percent of the member's base pension, as of the member's retirement date, subject to the following:

(1) No surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits under sections 86.1310 to 86.1640 unless such spouse was married to the member at the time of the member's retirement; and

(2) 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 under sections 86.1310 to 86.1640 for the life of such surviving spouse without regard to remarriage.

3. In the case of any member who, prior to August 28, 2001, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.1310 to 86.1640 in the absence of such remarriage.

4. Any beneficiary of benefits under sections 86.1310 to 86.1640 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 benefit under subsection 3 of section 86.1540 shall be entitled to every optional benefit for which such surviving spouse has so contracted.

5. The final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits under this section.

6. If there is 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.

86.1620. FUNERAL BENEFITS, AMOUNT — LUMP-SUM PAYMENT TO SURVIVING SPOUSE, WHEN. — 1. (1) Upon the death after August 28, 2003, of a member in service, or upon the death of a member who was in service on or after August 28, 2003, and 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 to the person or entity who provided or paid for the funeral services for such member.

(2) Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a consultant for the remainder of such member's life. Upon the death of such member, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

2. If no benefits are otherwise payable to a surviving spouse 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 of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

86.1630. TAX-EXEMPT STATUS OF PLAN TO BE MAINTAINED — ASSETS OF SYSTEM TO BE HELD IN TRUST — MEMBER BENEFITS VESTED, WHEN — DISTRIBUTION OF BENEFITS. — 1. A retirement plan under sections 86.1310 to 86.1640 is a qualified plan under the provisions of applicable federal law. The benefits and conditions of a retirement plan under sections 86.1310 to 86.1640 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 under Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of the 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 86.1310 to 86.1640.

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 under sections 86.1310 to 86.1640 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 under sections 86.1310 to 86.1640 in excess of the benefit limits applicable to the fund under 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 the 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 under Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from the 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 the 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 under 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 86.1310 to 86.1640, the actuarial assumptions to be 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 86.1310 to 86.1640. 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 upon providing direction to the secretary of the

retirement system regarding the 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 under 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 the 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.

86.1640. 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 the retirement system under sections 86.1310 to 86.1640, in addition to such other benefits as such members or their beneficiaries are entitled to receive under sections 86.1310 to 86.1640, provided such city shall so request and shall agree to increase said city's contribution under section 86.1390 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 86.1400, to provide all other benefits provided under sections 86.1310 to 86.1640.

[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 under and 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;

(11) "Member", a member of the police retirement system as defined in section 86.380;

(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;

(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;

(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;

(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;

(16) "Retirement board", the board provided in section 86.393 to administer the retirement system;

(17) "Retirement system", the police retirement system of the cities as defined in section 86.373.**]**

[86.373. POLICE RETIREMENT SYSTEM CREATED IN CERTAIN CITIES — ELECTION TO CONTINUE SYSTEM DESPITE DECLINE IN POPULATION. — In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for policemen of such cities. Any city which has established a police retirement system under the provisions of sections 86.370 to 86.497 may elect to continue its police retirement system under the provisions of sections 86.370 to 86.497 even though the city may cease to have the population described in this section, and any city so electing to continue its established police retirement system shall be excused from creating or maintaining any other police retirement system under any other provisions of the Missouri statutes. Each system shall be under the management of a retirement board hereinafter described and shall be known as the "Police Retirement System of (name of city)", and by such name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation as of the date sections 86.370 to 86.497 become effective.**]**

[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 under and 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 under and 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 under and 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 under and 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 under and pursuant to sections 86.370 to 86.497 in excess of the benefit limits applicable to the fund under and 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 under and 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 under and 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 upon providing direction to the secretary of this retirement system regarding the 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 under and 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.**]**

[86.377. MEMBERSHIP OF PERSONS ENTERING OR REENTERING THE FORCE AFTER EFFECTIVE DATE OF THIS LAW. — All persons who enter or reenter the service of the said cities as policemen as defined in sections 86.370 to 86.497 for compensation after the date this police retirement system becomes effective shall become members thereof as a condition of their

employment and shall receive no retirement or pension allowance from any other retirement or pension system supported wholly or in part by the said cities or the state of Missouri, nor shall they be required to make contributions under any other retirement or pension system of the said cities or the state. However, nothing in sections 86.370 to 86.497 shall be construed to prevent the inauguration of the federal Social Security laws for policemen as defined in sections 86.370 to 86.497, nor to prevent the contribution to such Social Security administration or fund established by the federal government, nor by it the pensioning of such policemen. In the event that federal or state Social Security benefits are made available to policemen covered by sections 86.370 to 86.497 then any benefits payable to any member, or the dependents of such member under sections 86.370 to 86.497, shall be in addition to the amount of such Social Security benefits, and any contributions required by a member hereunder shall be in addition to the amount of such member's contribution under such Social Security system.**]**

[86.380. POLICEMEN TO BE MEMBERS, EXCEPTION — EFFECT OF MILITARY SERVICE — REPAYMENT OF WITHDRAWN CONTRIBUTIONS. — 1. All policemen as defined in sections 86.370 to 86.497 in service on the date this police retirement system becomes operative shall become members as of that date unless prior thereto any such policeman shall have filed with the retirement board on a form prescribed by such board, a notice of his election not to become a member of the police retirement system, together with a duly executed waiver of all present and prospective benefits which would otherwise inure to him or his beneficiaries on account of his participation in such police retirement system.

2. Any policeman who left the service of the police department to enter military service in a national emergency subsequent to October 16, 1940, and who shall return to police service with such department within one year after his discharge from the military service, shall be given credit for any prior service he may have rendered.

3. Any policeman reentering police service after January 1, 1946, who had completed five years of prior creditable service may be given credit toward retirement for that service upon recommendation of the chief of police and approval of the board of police commissioners, subject, however, to the condition that such policeman deposit in the pension fund of the police retirement system a sum equal to the accumulated contributions which had been paid to him out of the pension fund upon or subsequent to the date that he left the police service and subject to subsection 2 referring to military service. Such repayment of withdrawn contributions shall be accompanied by an additonal payment of interest in the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.**]**

[86.383. REVOCATION OF ELECTION NOT TO BECOME A MEMBER. — Any policeman whose membership is contingent on his own election and who elects not to become a member may thereafter revoke such election and become a member, but no such policeman shall receive credit for prior police service unless he becomes a member within ninety days from the date the police retirement system becomes effective.**]**

[86.387. TEMPORARY LEAVE NOT TO AFFECT MEMBERSHIP, WHEN — MEMBER TO PAY OWN CONTRIBUTION, WHEN. — Should any member be absent by authority of the board of police commissioners in military service or should he be granted temporary leave of absence by the board of police commissioners after the passage of sections 86.370 to 86.497, he shall not, because of such absence, cease to be a member. A member absent for military service shall be entitled to such credits as are permitted by section 86.430. If a member is on temporary leave of absence for one month or less, such member shall receive service credit for such time. If a

member is on temporary leave of absence for more than one month without compensation, such member shall not receive service credits for such time unless such member shall, within one year of his return from such absence, pay into the retirement system fund an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during his absence at the rate of the base annual salary the member was receiving immediately prior to his absence.**]**

[86.390. MEMBERSHIP TERMINATED, WHEN — BENEFICIARIES AND SURVIVORS NOT MEMBERS, WHEN. — 1. Each person who becomes a member of this police retirement system pursuant to the provisions of sections 86.370 to 86.497 shall remain a member until the earliest to occur of the following events:

(1) The termination of service of such person and the payment to such person of all benefits due such person pursuant to the provisions of sections 86.370 to 86.497, unless such termination of service with the police department shall be for the purpose of entering military service in a national emergency;

(2) The termination of service with the police department to enter military service in a national emergency and the failure of such person to return to police service with such department within one year after his discharge from the military service, unless there shall remain benefits due such person pursuant to the provisions of sections 86.370 to 86.497, in which event such person's membership shall terminate pursuant to this subdivision when there shall no longer remain any such benefits due such person; and

(3) The death of such person.

2. If the surviving spouse of a member is entitled to a pension benefit hereunder, such surviving spouse shall be a member of the retirement system for so long as such surviving spouse shall remain entitled to such benefit. Any beneficiary or survivor of a deceased member shall not be a member of this police retirement system if such beneficiary or survivor is not a surviving spouse entitled to benefits pursuant to the provisions of sections 86.370 to 86.497, irrespective of whether there may remain benefits due such beneficiary or survivor from this system.**]**

[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 in 2004, the five elected members of the board shall 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) 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) One restricted member shall be a member of the police retirement system who, as of the date of such member's election to the board, is in active service as a police officer and has not attained the rank of sergeant or higher;

(c) One restricted member shall be a member of the civilian employees' retirement system of the police department of such city.

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) Any person elected to a restricted position on the retirement board who at the time of such election meets the qualifications for such position shall be deemed to continue to meet such qualifications throughout the term to which such person was elected, regardless of any change in the rank, classification or other employment status of such person.

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.**]**

[86.397. COMPENSATION OF BOARD. — The members of the retirement board shall be compensated in full for all services rendered pursuant to the provisions of sections 86.370 to 86.497 at the rate of ten dollars per business session actually attended but no member shall be so compensated in an amount exceeding one hundred and fifty dollars in any fiscal year

regardless of the amount of services rendered or the number of business sessions actually attended. They shall be reimbursed from the funds of the police retirement system for all necessary expenses which they may incur on said board, in addition to their compensation for services.**]**

[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 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 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 the person in connection with such action, suit or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe 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 the person did not have reasonable cause to believe that the relevant conduct was lawful.

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 subsections 1 and 2 of this section, or in defense of any claim, issue or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under 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 any person potentially entitled to indemnification hereunder is proper in the circumstances because 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.

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 person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.**]**

[86.400. OATH. — Each member of the retirement board shall, within ten days after his appointment or election, take an oath of office, that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the said board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the police retirement system. Such oath shall be subscribed to by the member and filed with the clerk of such city.**]**

[86.403. VOTING — QUORUM. — Each member of the retirement board shall be entitled to one vote in the decisions of the board. Five votes or more in favor shall be necessary to pass a motion by the retirement board at any meeting of the board.**]**

[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. 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.**]**

[86.410. DATA AND RECORDS — ANNUAL REPORT — ACTUARIAL STUDY. — 1. The retirement board shall keep in convenient form such data as is necessary for administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually in pamphlet form a report prepared by certified public accountants showing the fiscal transactions of the retirement system for the preceding fiscal year, the status of assets and liabilities and the amount of cash on hand. One copy of the annual report shall be delivered to each member of the retirement system, one copy to each member of the retirement board, one copy shall be filed with the city clerk and one copy delivered to each member of the board of police commissioners.

2. The retirement board shall cause an actuarial study and calculation to be made in 1959 based upon the experiences of the retirement system by an independent firm of pension actuaries and shall cause actuarial studies and calculations to be made each five years thereafter.**]**

[86.413. BOARD TO CERTIFY AMOUNT TO BE PAID BY CITY, WHEN. — The retirement board shall before January tenth of each year certify to the chief financial officer of said city, the amount to be paid by the city under the retirement pension system for the succeeding fiscal year, as otherwise provided by sections 86.370 to 86.497.**]**

[86.417. SEAL — SUITS, HOW BROUGHT. — The retirement board shall adopt a common seal. The retirement board may sue and be sued in its own name and such suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.**]**

[86.420. FINDINGS OF BOARD — REVIEW. — 1. The retirement board's findings on all issues of fact shall be final and conclusive upon all parties concerned, when such findings are supported by competent and substantial evidence.

2. Rulings of the retirement board on questions of law and whether the same is supported by competent and substantial evidence may be reviewed, upon application of any party, by the circuit court of the county in which such cities are located.**]**

[86.423. FILING AND VERIFICATION OF PRIOR SERVICE STATEMENT. — 1. Under such rules and regulations as the retirement board shall adopt, each member who was a policeman, as defined in sections 86.370 to 86.497, on and prior to the date the police retirement system becomes operative and who becomes a member within ninety days from such date shall file a detailed statement of all prior service for which he claims credit.

2. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service rendered in one calendar year, nor shall the retirement board allow credit as service for any period of more than one month's duration during which the member was absent without pay, except for absence in the military service during a national emergency.

3. Subject to the above restrictions and to such other rules and regulations as the retirement board may adopt, the retirement board shall verify the prior service claims as soon as practicable after the filing of such statement of service.**]**

[86.427. PRIOR SERVICE CERTIFICATES — ISSUANCE. — Upon verification of the statements of service, the retirement board shall issue prior service certificates, certifying to each member the length of prior service with which he is credited, and the final compensation of such member computed as of June 15, 1946. So long as the holder of the certificate continues to be a member, the prior service certificate shall be final and conclusive for retirement purpose as to such service. Any member, within one year from the date of issuance or modification of the certificate, may request the retirement board to modify or correct his prior service certificate. When any policeman ceases to be a member his prior service certificate shall become void. Should he again become a policeman, he shall enter the retirement system as a member entitled to prior service credit only as provided in section 86.380.**]**

[86.430. CREDITABLE SERVICE TO INCLUDE — ACTIVE DUTY IN ARMED FORCES, PURCHASE OF PRIOR CREDITABLE SERVICE — CREDITABLE SERVICE NOT INCLUDED FOR MEMBER SUSPENDED WITHOUT PAY. — 1. Creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by him since he last became a member and also, if he has a prior service certificate which is in full force and effect, the amount of the prior service certified on his prior service certificate.

2. Creditable service also includes all services rendered by a member as defined in subdivision (14) of section 86.370 even though he is assigned to the performance of duties for the police department of the cities other than for law enforcement.

3. Creditable service shall not include any time a member was suspended from service without pay. No contribution is required from either the member under section 86.470 or from the city under section 86.477 for such time.

4. Any active member on August 28, 1995, who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than August 28, 1997, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided 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 other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the creditable

service so purchased, as of the date the member elects to make the purchase. The retirement system shall determine the value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment payment plan at the time of death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.370 to 86.497.

5. Any individual who becomes a member of the retirement system subsequent to August 28, 1995, and who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than two years after the effective date of his membership in the retirement system, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided 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, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.370 to 86.497.**]**

[86.433. RETIREMENT AFTER THIRTY YEARS, EXCEPTION — MINIMUM PENSION. — Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in this section, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.370, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.370, multiplied by the number of years of such member's total creditable service.

Such pension shall be not less than seven thousand two hundred dollars annually and in any event shall not exceed seventy-five percent of the member's final compensation. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners on recommendation of the chief of police until such member attains the age of sixty-five years. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.**]**

[86.434. LUMP-SUM OPTION PLAN DISTRIBUTION OF BENEFITS, ELECTION PROCEDURE — VOID, WHEN. — 1. Any member entitled to commence a pension under and 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 under and 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 under and 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 under and pursuant to this section.

2. (1) A member entitled to make an election under and pursuant to this section may elect to receive a lump sum distribution with the member's initial monthly pension payment under and 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 under and 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 under and 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 under and pursuant to this section.

(2) When a member makes an election to receive a lump sum distribution under and 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 under and pursuant to sections 86.370 to 86.497.

3. An election under and 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.**]**

[86.437. RETIREMENT AT AGE SIXTY, WHEN — PENSION, HOW CALCULATED. — Except as provided in section 86.443, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive an annual pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.370, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.370 multiplied by the number of years of such member's total creditable service.**]**

[86.440. MINIMUM PENSIONS — SPECIAL CONSULTANT, DUTY, COMPENSATION, COST-OF-LIVING ADJUSTMENTS. — Any member who retires after August 28, 2000, who is entitled to a pension benefit pursuant to the provisions of sections 86.370 to 86.497 and who either has at least twenty-five years of creditable service or is retired as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, shall receive a pension benefit which, without including any supplemental retirement benefits paid such member by this retirement system, shall be not less than six hundred dollars monthly. Any member who retires on or before August 28, 2000, who is entitled to a pension benefit pursuant to the provisions of sections 86.370 to 86.497 and who either had at least twenty-five years of creditable service or was retired as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, 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 member shall, beginning the later of August 28, 2000, or the time of such appointment under this section, be compensated in an amount which without including any supplemental retirement benefits provided by this system, shall be not less than six hundred dollars monthly. A pension benefit pursuant to this section shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted pursuant to section 86.441. The benefit pursuant to this section shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and such adjustments exceed six hundred dollars monthly.**]**

[86.441. COST-OF-LIVING ADJUSTMENTS, HOW COMPUTED. — 1. Any member who retires on a pension subsequent to August 13, 1972, may receive each year, beginning January 1, 1972, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such member's base pension during any one year provided that the retirement pension system shall remain actuarially sound.

2. Any member who was retired on August 13, 1972, may receive each year, beginning January 1, 1986, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such base pension during any one year, provided that the retirement pension system shall remain actuarially sound.

3. If a member who has been retired and receiving a pension dies after September 28, 1987, the surviving spouse or children of such member entitled to receive a base pension pursuant to section 86.447 shall also receive a percentage cost-of-living adjustment to their respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime pursuant to this section.

4. The cost-of-living adjustment shall be an increase or decrease computed on the base pension amount by the retirement board in an amount that the board, in its discretion, determines to be satisfactory, but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension.

5. In determining and granting the cost-of-living adjustments, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year and to the surviving spouse or children of a member who has died during the year prior to such adjustments.

6. As used in this cost-of-living adjustment section, the term "base pension" shall mean, when used in connection with a member, the pension computed under the provisions of the law as of the date of retirement of the member without regard to cost-of-living adjustment and, when used in connection with a surviving spouse or children of a member, the pension computed under the provisions of the law as of the date of death of the member without regard to cost-of-living adjustment except as provided in section 86.447. For the purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to pension benefits from this retirement system and any children of the member who are entitled to receive part or all of the pension which would be received by a surviving spouse if living.

7. The determination of whether the retirement pension system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement pension system becomes actuarially unsound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement pension system would remain actuarially sound.**]**

[86.442. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNTS, DETERMINATION, PURPOSE — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION — BOARD, POWERS — SURVIVING SPOUSE BENEFIT LIMITATIONS. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.370 to 86.497, shall receive each month, in addition to such member's base pension, a supplemental retirement benefit in the amount of fifty dollars per month, for assistance in meeting hospitalization and medical care costs or other expenses. Any member who receives such a supplemental retirement benefit may also receive not more frequently than annually, in addition to a base pension, as may be adjusted pursuant to section 86.441, and supplemental retirement benefit, a cost-of-living adjustment to the supplemental retirement benefit, in monthly adjustment increments to be determined by the retirement board. Such determination shall be based on advice of the plan's actuary, that the increase in the benefit will not cause the present value of anticipated future plan benefits calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be made, constituted, appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, for the remainder of such member's life, 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 member shall be compensated monthly, in addition to a base pension, in the amount of fifty dollars per month. This employment shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.370 to 86.497, or in any way have the effect of

reducing retirement benefits otherwise payable to such member. Any member who receives such monthly compensation as a special consultant to the retirement board may also receive not more frequently than annually, beginning in 1992, in addition to such member's base pension, as may be adjusted pursuant to section 86.441, and monthly compensation as a special consultant to the retirement board, a cost-of-living adjustment to such monthly compensation, in monthly adjustment increments to be determined by the retirement board. Such determination shall be based on advice of the plan's actuary, that the increase in the benefit will not cause the present value of anticipated future plan benefits calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated future contributions to the trust fund.

3. In determining and granting cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year and to the surviving spouse of a member who has died during the year prior to such adjustments.

4. For the purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a pension benefit pursuant to sections 86.370 to 86.497, but shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living. In determining whether the rights of any such surviving spouse are provided under subsection 1 or under subsection 2 of this section, the surviving spouse shall be deemed to have the date of retirement of the member of whom such person is the surviving spouse, except that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits pursuant to subsection 2 of this section, and except further that no benefits shall be payable pursuant to this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried prior to August 28, 2000. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment hereunder prior to such member's death.

5. The determination of whether the retirement pension system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement pension system becomes actuarially unsound, supplemental retirement benefit payments under subsection 1 of this section and monthly compensation payments as a special consultant to the retirement board under subsection 2 of this section shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement pension system would remain actuarially sound.**]**

[86.443. COMPULSORY RETIREMENT, EXCEPTION. — Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age, or over, to remain in service until such member reaches the age of sixty-five years and no longer. Such member shall continue to make contributions and receive credit for service until he is sixty-five years of age, until his retirement, or until he has completed thirty years of creditable service, whichever occurs first.**]**

[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 and pursuant to sections 86.370 to 86.497, in addition to such other benefits as such members or their beneficiaries are entitled to receive under and pursuant to sections 86.370 to 86.497 provided such city shall so request and shall agree to increase the city's contribution under and 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 under and pursuant to section 86.470, to provide all other benefits provided under and pursuant to 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 86.370 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.**]**

[86.450. ACCIDENTAL DISABILITY PENSION — PERIODICAL EXAMINATIONS — EFFECT OF EARNINGS. — 1. Any member who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate and exclusive result of an accident occurring within the actual performance of duty at some definite time and place or through an occupational disease arising exclusively out of and in the course of his or her employment shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement, a member shall receive a pension equal to seventy-five percent of his or her final compensation for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a disability beneficiary. Such pension may be subject to offset or reduction under section 86.460 by amounts paid or payable under any workers' compensation law.

3. Once each year during the first five years following his or her retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit

to a medical examination his or her disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension pursuant to subsection 4 of this section, the former disability beneficiary is restored to active service, he or she shall again become a member, and he or she shall contribute thereafter at the same rate as other members. Upon his or her subsequent retirement, he or she shall be credited with all his or her service as a member, including any years in which such disability beneficiary received a disability pension pursuant to this section.

6. If upon cessation of a disability pension pursuant to subsection 4 of this section, the former disability beneficiary is not restored to active service, such former disability beneficiary shall be entitled to the retirement benefit to which such former disability beneficiary would have been entitled if such former disability beneficiary had terminated service for any reason other than dishonesty, intemperate habits or being convicted of a felony at the time of such cessation of such former disability beneficiary's disability pension. For the purpose of such retirement benefits, such former disability beneficiary will be credited with all the former disability beneficiary's service as a member, including any years in which the former disability beneficiary received a disability beneficiary pension under this section.**]**

[86.453. DEPENDENTS' ALLOWANCES ON DEATH FROM ACCIDENT IN SERVICE. — 1. Upon the receipt of the proper proofs that the death of a member in service was the natural and proximate result of an event occurring within the performance of duty or of an occupational disease arising out of and in the course of his employment, there shall be paid to his surviving spouse, or if there be no surviving spouse, then to his child or children under the age of twenty-one years or over the age of twenty-one years if mentally or physically incapacitated from wage earning, in equal shares or divided between or among them, as the retirement board in its sole discretion shall direct, the sum of fifty thousand dollars.

2. If the member dies in such a manner that a surviving spouse or child would be entitled to benefits under this section but there is no surviving spouse or child eligible to receive payments under this section, no payments under this section shall be paid.

3. Notwithstanding anything to the contrary in this chapter or any other chapter of the Missouri revised statutes, amounts payable under this section shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.**]**

[86.457. PENSION WHERE DISABILITY NOT EXCLUSIVELY CONNECTED WITH SERVICE — NONDUTY DISABILITY BENEFICIARY, PERIODIC EXAMINATIONS REQUIRED. — 1. Any member who has completed ten or more years of creditable service and who has become permanently unable to perform the full and unrestricted duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence, shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the incapacity is permanent or likely to become permanent and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement, a member shall receive a pension equal to two and one-half percent of his final compensation multiplied by the number of years of his creditable service.

Such pension shall be paid for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a nonduty disability beneficiary.

3. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained the age of sixty years, to undergo a medical examination at a place designated by the medical board or some member thereof. If any nonduty disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a nonduty disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's nonduty disability pension shall cease.**]**

[86.460. WORKERS' COMPENSATION BENEFITS TO BE SET OFF AGAINST PAYMENTS UNDER THIS LAW, EXCEPTIONS. — 1. Any periodic payment, excluding payments for medical treatment, which may be paid or payable by the cities under 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 under the provisions of sections 86.370 to 86.497 on account of the same disability or death; except that, amounts payable under section 86.453 shall not be offset or reduced by any amount paid or payable under any workers' compensation or similar law. However, in no event shall the amount paid from funds under the provisions of sections 86.370 to 86.497 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.370 to 86.497, other than under section 86.453 and 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 under 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 under the provisions of sections 86.370 to 86.497 on account of the same disability or death; except that, amounts payable under section 86.453 shall not be offset or reduced by any amounts paid or payable under any workers' compensation or similar law. The amount by which each periodic payment made under the provisions of sections 86.370 to 86.497 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. However, in no event shall the amount paid from funds under the provisions of sections 86.370 to 86.497 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.370 to 86.497, other than under section 86.453 and 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 under section 86.470 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of the percentages of a member's compensation contributed by a working member under

section 86.470 and the city under section 86.477 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.370 to 86.497 which is deemed to have been provided by the member's own contributions.**]**

[86.463. PENSION AFTER TEN YEARS' SERVICE, TERMINATION OF SERVICE BY COMMISSIONERS — PENSION AFTER FIFTEEN YEARS' SERVICE ON RESIGNATION, HOW CALCULATED. — 1. Whenever the service of a member is not terminated by death or retirement, but by order of the board of police commissioners for any reason other than dishonesty, intemperate habits or being convicted of a felony, and the member has not less than ten years of creditable service, the member shall become entitled to an annual pension beginning at the age of sixty, if he or she is then living, bearing the same ratio to fifty percent of his or her final compensation, as defined in section 86.370, that the number of years of creditable service bears to thirty. When the member has less than ten years of creditable service, upon termination of service he or she shall be paid the amount of his or her accumulated contributions in one lump sum payment without interest, which shall constitute payment in full of all benefits to which he or she might be entitled under sections 86.370 to 86.497.

2. Whenever the service of a member is not terminated by death or retirement, but by voluntary resignation and the member has not less than fifteen years of creditable service, the member may elect not to withdraw his or her accumulated contributions and shall become entitled to an annual pension beginning at the age of fifty-five, if he or she is then living, equal to two and one-half percent of his or her final compensation multiplied by the number of years of his or her creditable service. When the member has less than fifteen years of creditable service, upon resignation from service he or she shall be paid the amount of his or her accumulated contributions in one lump sum payment without interest, which shall constitute payment in full of all benefits to which he or she might be entitled under sections 86.370 to 86.497.**]**

[86.467. PAYMENT OF ACCUMULATED CONTRIBUTIONS, WHEN. — Whenever the service of a member is terminated for any reason, such member may choose to withdraw all of such member's accumulated contributions to the fund, in which case such member shall be paid on demand the amount of his accumulated contributions in one lump sum, and such payment shall be in lieu of any and all other benefits to which he might otherwise become entitled under sections 86.370 to 86.497.**]**

[86.470. MEMBER'S CONTRIBUTIONS. — The board of police commissioners shall deduct or cause to be deducted from the compensation of each member until retirement a percentage of his compensation, which shall not be less than six percent, as determined by the retirement board, as his contribution to the pension fund. The sum so deducted shall be paid by the board of police commissioners monthly or semimonthly to the retirement board to be credited to the member's account.**]**

[86.473. DEDUCTIONS — MEMBERS DEEMED TO CONSENT TO — TO BE PAID INTO PENSION FUND. — The deductions provided for herein shall be made even though the minimum compensation provided by law for any such member shall be reduced thereby. Every member shall be deemed to consent to the deductions made and provided for herein, and shall receipt for his full salary or compensation, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered during the period covered by such payment except as to benefits provided by sections 86.370 to 86.497. The board of police commissioners shall certify to the retirement board on each and every payroll the amount deducted, and such amounts shall be paid into the pension fund and shall be credited to the individual pension account of the member from whose compensation said deduction was made.**]**

[86.477. CONTRIBUTIONS BY CITY. — The city shall contribute to the pension fund quarter-annually or at such lesser intervals as may be agreed upon by the city and the retirement board. Such contribution shall be in addition to and separate from the appropriations made by the city for the operation of the police department. For each fiscal year of the operation of the pension system, the city's contribution to the pension fund shall be a percentage of the compensation paid to members of the pension system from which a member's deduction has been made under section 86.473. The city's contribution shall be such percentage as shall be agreed upon by the board of police commissioners and the city but in no event shall such contribution be less than twelve percent.**]**

[86.480. CITY TO APPROPRIATE MONEY NEEDED. — On or before the tenth day of January of each year the retirement board shall certify to the board of police commissioners the amount of money that will probably be required to comply with the provisions of section 86.477 during the next succeeding fiscal year including administration expenses. The amounts so certified shall be included by the board of police commissioners in their annual budget estimate, and shall be appropriated by the said cities and transferred to the pension fund during the ensuing fiscal year.**]**

[86.483. INVESTMENT OF FUNDS, BOARD AUTHORIZED TO MANAGE, DESIGNATE DEPOSITORY — PROCEDURES. — 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.370 to 86.497. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 86.370 to 86.497. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other properties. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited to the funds of the retirement system at frequent intervals satisfactory to the retirement board. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, except as otherwise provided in this subsection. No order shall be drawn unless it shall have previously been allowed by a specific or an ongoing generalized resolution of the retirement board. In the case of payments for benefits, services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment other than payments to members or beneficiaries for

benefits shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board. All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board may contract with a bank or trust company to act as the custodian of the bonds and securities, in which case the retirement board may authorize such custodian bank or trust company to order purchases, loans or sales of investments by such custodian bank or trust company, and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment.**]**

[86.487. SECRETARY AND TREASURER TO GIVE BOND. — The secretary and treasurer shall each, before assuming the duties of his office, give a good and sufficient surety bond for an amount determined by the retirement board, but not more than twenty-five percent more than the maximum amount on hand during the previous calendar year nor less than twenty thousand dollars, conditioned upon the faithful performance of his duties as such officer, and to account for all moneys, securities, and property which may come into his hands or under his control by virtue of such office, with two or more solvent sureties thereon with a net worth in excess of the amount of such bond who shall each execute an affidavit to be attached to such bond giving the net worth of such surety over and above all liabilities and statutory exemptions, or with a corporate surety duly licensed to transact business in this state, and in the event a corporate surety bond is given the premium therefor shall be paid out of the funds of the retirement pension system. Such bonds shall be subject to the approval of the presiding judge of the circuit court of the county in which such cities are located. The offices of secretary and of treasurer shall not be held by the same person.**]**

[86.490. BENEFITS AND ADMINISTRATION EXPENSE ARE OBLIGATIONS OF FUNDS. — The payment of all benefits provided by sections 86.370 to 86.497 in excess of the amount of the members' contributions and the payment of all expenses necessary for the administration and operation of the police retirement system shall be and are hereby made obligations of said funds created hereunder and not of said city.**]**

[86.493. MONEYS EXEMPT FROM TAXATION AND PROCESS, EXCEPT FOR SUPPORT ORDERS AND ASSIGNMENTS. — The right of any person to pension or pensions, to the return of contributions, disability or death benefits or any other right accrued or accruing to any person under the provisions of sections 86.370 to 86.497 and the moneys in the various funds created under sections 86.370 to 86.497 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof, and shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable except as specifically provided in sections 86.370 to 86.497, and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.370 to 86.497. A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment, such as a request to apply some portion of a benefit payment to a medical insurance premium, shall not be deemed an assignment prohibited under this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.**]**

[86.497. CRIMINAL LIABILITY — CORRECTION OF ERRORS IN BENEFITS — ADJUSTMENT. — Nothing contained in sections 86.370 to 86.497 shall in any way limit the

criminal liability of any person subject to prosecution under any law which is now or may hereafter be in force. Should any change or error in records result in any member or beneficiary receiving from the pension system more or less than he would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payments in such a manner that the benefit to which said member or beneficiary was correctly entitled shall be paid.**]**

[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 under and 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;

(12) "Member", any member of the retirement system as provided by sections 86.600 to 86.790;

(13) "Normal retirement", retirement from the service of the employer on or after the normal retirement date;

(14) "Operative date", the date this retirement system becomes operative;

(15) "Pension", the annual payments for life which shall be payable in equal monthly installments to a member or his or her spouse;

(16) "Retirement board", the persons appointed or elected to be members of the retirement board for civilian employees of police departments of the cities;

(17) "Retirement system", the retirement system of the civilian employees of the cities as specified in sections 86.600 to 86.790;

(18) "Surviving spouse", the legally married wife or husband of a member surviving the member's death.**]**

[86.610. ESTABLISHMENT OF SYSTEM — NAME — EFFECTIVE DATE — CONTINUATION OF SYSTEM DESPITE FAILURE TO MEET REQUIREMENTS. — In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for civilian employees of police departments of the cities. Any city which has established a civilian employees' retirement system under the provisions of sections 86.600 to 86.790 may elect to continue its civilian employees' retirement system under the provisions of sections 86.600 to 86.790 even though the city may no longer meet the requirements stated in sections 86.600 to 86.790. Each system shall be under the management of a retirement board hereinafter described and shall be known as the "Civilian Employees' Retirement System of the Police Department of (name of city)", and by this name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation on October 13, 1965, on which date contributions of employees shall be payable to the pension fund.**]**

[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 under and 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 under and 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 under and 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 under and 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 under and pursuant to sections 86.600 to 86.790 in excess of the benefit limits applicable to the fund under and 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 under and 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 under and 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 upon providing direction to the secretary of this retirement system regarding the 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 under and 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.**]**

[86.620. WHO SHALL BE MEMBERS — MEMBERSHIP VESTS, WHEN — TERMINATED EMPLOYEE WITH FIVE YEARS' SERVICE OPTION TO WITHDRAW CONTRIBUTION OR LEAVE IN FUND FOR PENSION — SPECIAL CONSULTANT, DUTY, COMPENSATION. — 1. Every person who becomes an employee, as defined in subdivision (7) of section 86.600, after August 28, 2001, shall become a member of the retirement system defined in sections 86.600 to 86.790 as a condition of such employment.

2. All civilian employees of such police departments who have completed six months of continuous employment as of August 13, 1990, but who have not theretofore been members of this retirement system because they were proscribed from participation by provisions of law in effect prior to such date, shall become members on that date.

3. Any employee described in subsection 2 of this section may establish creditable service for purposes of calculating such employee's pension under sections 86.600 to 86.790 for all years of such employee's employment by such police department, by paying as an employee contribution to the retirement system, on or before August 13, 1991, a single sum equal to the aggregate amount of contributions, without interest, which would have been deducted from such employee's compensation for all years pursuant to section 86.760 if such employee had not been proscribed from participation.

4. Except as provided in subsection 5 of this section, upon termination of employment prior to completion of five years of creditable service, an employee member shall be paid all of such member's accumulated contributions to the fund, and such member's membership in the retirement system shall cease and such member shall forfeit all rights to any other benefits under the system arising from such member's service to date of termination.

5. A terminated employee member with five or more years of creditable service may choose to withdraw all of such member's accumulated contributions to the fund, in which case such member shall be paid upon demand the amount of such member's accumulated contributions in one lump payment and all provisions of subsection 4 of this section shall apply, or such terminated employee member may permit such member's contributions to remain in the fund until such member reaches such member's normal retirement date. Should a terminated member choose to withdraw his or her contributions, his or her membership in the retirement system shall cease, and he or she shall forfeit all rights to any other benefits under the system arising from his or her service to date of termination. The following shall apply to members described in this subsection:

(1) If such member retires after August 28, 1999, and allows such member's contributions to remain in the fund, such member shall be entitled to receive a pension upon such member's normal retirement date pursuant to section 86.650 or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted pursuant to section 86.660 if such member had remained a civilian employee of such police department, except that in calculating any qualification pursuant to section 86.660, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted pursuant to section 86.660 shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable pursuant to section 86.660 upon which such member relies in electing the commencement of such member's pension;

(2) If such member retired on or before August 28, 1999, and allowed his or her contributions to remain in the fund, such member 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 member shall, beginning the later of August 28, 1999, or the time of such appointment pursuant to this subsection, be entitled to elect to receive compensation in such amount and commencing at such time as such member would have been entitled to elect pursuant to any of the provisions of section 86.660 if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the commencement of such compensation as if such member's compensation had been a pension.**]**

[86.630. CREDITABLE SERVICE — MEMBERS ENTITLED TO PRIOR SERVICE CREDIT, WHEN — ACTIVE DUTY IN ARMED FORCES, PURCHASE OF PRIOR CREDIT — NO CREDITABLE SERVICE FOR MEMBER SUSPENDED WITHOUT PAY. — 1. The years of future creditable service of an employee member shall be the number of years and months of completed membership in the retirement system up to the time of retirement during which he has received compensation. The years and months of creditable service prior to October 13, 1965, shall be the continuous years and months of service from the latest date of employment. When an employee has been given a leave of absence prior to October 13, 1965, because of illness or disability and at the time he had reached the retirement age prescribed in sections 86.600 to 86.790, he shall be entitled to retire and the number of years served by him up to the time of the leave of absence are the years and months of creditable service. Whenever a member is given a leave of absence for military service and he returns to his employment within ninety days after his discharge from the service, he shall be entitled to creditable service for the years of his employment prior to the leave of absence.

2. Members who terminate membership and later return to membership may receive credit for prior service and membership service after they have been reemployed for at least two consecutive years and have repaid withdrawn contributions if an election to return to membership is made within three years of reemployment. Such repayment of withdrawn contributions shall be accompanied by additional payment of interest in the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions have been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.

3. Creditable service shall not include any time a member was suspended from service without pay. No contribution is required from either the member or from the city under section 86.760 for such time.

4. Any active member on August 28, 1995, who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than August 28, 1997, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided 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, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the creditable service so purchased, as of the date the member elects to make such purchase. The retirement system shall determine the value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this section shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election or as a result of any such partial payments shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment payment plan at the time of the death or disability, such election shall be valid if the member, the surviving

spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.670.

5. Any individual who becomes a member of the retirement system subsequent to August 28, 1995, and who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than two years after the effective date of his membership in the retirement system, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided 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, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make the purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this section shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed time period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this section and if the member is current in payments at the time of death or disability, under an approved installment plan, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments shall pay the entire balance of remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.670.**]**

[86.640. NORMAL RETIREMENT DATES. — The normal retirement date of a member shall be the first day of the month which coincides with or next follows the later of the date he attains the age of sixty-five years, or his tenth anniversary of employment.**]**

[86.650. NORMAL PENSION, AMOUNT — OPTIONAL ANNUITY, AMOUNT, PAYMENTS, WHEN. — 1. Upon retirement on or after a member's normal retirement date, such member shall receive a normal pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

2. A member who is married at the time of his retirement may by a written election, with the written consent of such member's spouse, elect an optional annuity, in lieu of a normal pension. Such optional annuity shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the normal pension for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, pursuant to section 86.690), upon 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. An election for an optional annuity shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

3. All payments of a normal pension or of an optional annuity shall be paid on the first day of each month. The first payment shall be paid on the normal retirement date, if the member retires on such normal retirement date; or if such member retires upon any other date, the first payment shall be paid on the first day of the month coinciding with or next following the date provided herein for the commencement of such member's retirement benefits. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs, and the final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits hereunder.**]**

[86.660. EARLY RETIREMENT — AMOUNT OF PENSION, HOW DETERMINED. — Members may elect early retirement:

(1) Beginning at age fifty-five if the member has completed at least ten years of creditable service, or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this section shall be applicable, the benefit as computed under section 86.650 shall be reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty if the member has completed at least five but not more than ten years of creditable service, or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this section shall be applicable, the benefit as computed under section 86.650 shall be reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty-five;

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under section 86.650 without any reduction.**]**

[86.665. LUMP-SUM OPTION PLAN DISTRIBUTION, PROCEDURE — VOID, WHEN. — 1. Any member entitled to commence a pension under and 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 under and 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 under and 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 under and pursuant to this section.

2. (1) A member entitled to make an election under and pursuant to this section may elect to receive a lump sum distribution with such member's initial monthly pension payment under and 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 under and 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 under and 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 under and 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 under and pursuant to either section 86.650 or 86.660.

(2) When a member makes an election to receive a lump-sum distribution under and 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 under and pursuant to sections 86.600 to 86.790.

(3) If a member electing a lump sum distribution under and 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 under and pursuant to section 86.650 shall be reduced if applicable by any reductions required under and pursuant to section 86.660;

(b) The amount of the normal pension as determined under and 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 under and 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 under and 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 under and 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.**]**

[86.670. DISABILITY RETIREMENT PENSION, AMOUNT. — A member who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire on the first day of the month following termination of employment arising from such disability, provided as follows:

(1) Members who are eligible and totally and permanently disabled, as defined herein, shall receive a disability pension computed as follows:

(a) Duty disability: Fifty percent of final compensation at date of disability;

(b) Nonduty disability: Thirty percent of final compensation, but in no event less than the amount the member would be entitled to as a pension if he retired on the same date with equivalent age and creditable service;

(c) The annuity shall cease upon the first day of the month following death except that a surviving spouse shall be entitled to death benefits as computed in accordance with subsection 2 of section 86.690;

(2) (a) "Duty disability" shall mean total and permanent disability directly due to and caused by actual performance of employment with the police department;

(b) "Nonduty disability" shall mean total and permanent disability arising from any other cause than duty disability. Only members with ten years or more of creditable service shall be eligible;

(3) "Total and permanent disability" shall mean a state or condition which presumably prevents for the rest of a member's life his engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been contracted, suffered, or incurred while the employee was engaged in or as a result of having been engaged in a criminal act or enterprise, or resulting from habitual drunkenness or addiction to narcotics or from self-inflicted injury, or from disability incurred while in the service of the armed forces of the United States or any foreign country. No benefit shall be payable if the disability results from or is incurred while the member is engaged in self-employment or in any occupation or performing any work for remuneration or profit not in the service of the police department. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians. The written opinion of any one shall be required. The medical board shall be appointed by the retirement board and expense for such examinations as required shall be paid from funds of this retirement system. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board;

(4) Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. If the member immediately returns to work with the police department, he shall again earn creditable service beginning on the first day of the month following such return. Creditable service prior to disability retirement shall be reinstated. Should the member not return to work with the police department, he shall be deemed to have terminated employment by the police department at the time his disability retirement commenced; but in calculating any benefits due him upon such presumption, the retirement system shall receive credit for all amounts paid such member during his period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid to him during such period of disability.**]**

[86.671. OFFSETS TO WORKERS' COMPENSATION PAYMENTS — RULEMAKING AUTHORIZED — MEMBER'S PERCENTAGE DEFINED. — 1. Any 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.**]**

[86.672. SUPPLEMENTAL RETIREMENT HEALTH INSURANCE BENEFIT — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENT, COMPUTATION — ELIGIBILITY FOR BENEFITS. — 1. Any member who retires after August 28, 1996, and who is entitled to a pension under sections 86.600 to 86.790, shall receive each month, in addition to such member's base pension and any other benefits provided in sections 86.600 to 86.790, a supplemental retirement health insurance benefit in the amount of fifty dollars per month. Any person who receives such a supplemental retirement health insurance benefit may also receive not more frequently than annually, in addition to a base pension as may be adjusted pursuant to section 86.675 and in addition to such supplemental retirement benefit, a cost-of-living adjustment to the supplemental retirement health insurance benefit in monthly adjustment increments to be determined by the retirement board.

2. Any member who retired after August 28, 1995, and on or before August 28, 1996, and who met the requirements of subsection 7 of this section on the date of such member's retirement, shall receive each month, in addition to such member's base pension and any other benefits provided in sections 86.600 to 86.790, a supplemental retirement health insurance benefit in the amount of fifty dollars per month payable until the member attains the age of sixty-five years. Any person who receives such a supplemental retirement health insurance benefit may also receive not more frequently than annually, in addition to a base pension as may be adjusted pursuant to section 86.675, and in addition to such supplemental retirement health insurance benefit, a cost-of-living adjustment to the supplemental retirement health insurance benefit in monthly adjustment increments to be determined by the retirement board.

3. Any member who retired after August 28, 1992, and on or before August 28, 1995, and who met the requirements of subsection 7 of this section on the date of such member's retirement, shall receive each month, in addition to the member's base pension and any other benefits provided in sections 86.600 to 86.790, a supplemental retirement health insurance benefit in the amount of fifty dollars per month payable until the member attains the age of sixty-five years. Any member who was retired after August 28, 1992, and on or before August 28, 1995, and who receives a supplemental retirement health insurance benefit, shall upon application to the retirement board, be made, constituted, appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, until the member attains the age of sixty-five years, 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 member shall be compensated monthly, in addition to a base pension as may be adjusted pursuant to section 86.675, and in addition to the

supplemental retirement health insurance benefit set out in this subsection, by a cost-of-living adjustment to the supplemental retirement health insurance benefit payable in monthly adjustment increments to be determined by the retirement board.

4. Any member who retired on or before August 28, 1999, who at the time of such retirement was entitled to a pension under sections 86.600 to 86.790 and who either was not eligible for any supplemental retirement health insurance benefits or was eligible for and began receiving supplemental retirement health insurance benefits but ceased eligibility by attaining age sixty-five, shall upon application to the retirement board, be made, constituted, 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 member shall, beginning the later of August 28, 1996, or the time of such appointment under this subsection, be compensated monthly, in addition to a base pension as may be adjusted pursuant to section 86.675, by a supplemental retirement health insurance benefit in the amount of fifty dollars per month, for assistance in meeting hospitalization and medical care costs or other expenses, and by a cost-of-living adjustment to the supplemental retirement health insurance benefit, in monthly adjustment increments to be determined by the retirement board.

5. The determination of cost-of-living adjustments under this section shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits calculated on the actuarial assumptions used for the last annual valuation to exceed the sum of the retirement system assets plus the present value of anticipated contributions to the retirement system. The determination of whether an adjustment will satisfy said actuarial standard shall be made at the time an increase is granted. If at any time the retirement system shall cease to satisfy such standard, all benefit payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would satisfy such standard at the time an adjustment is made. In determining and granting cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year.

6. Any member's employment as a special consultant under subsection 3 or 4 of this section shall in no way affect such member's eligibility for retirement benefits under the provisions of sections 86.600 to 86.790, or in any way have the effect of reducing retirement benefits otherwise payable to such member.

7. Members entitled to the benefits provided in subsections 2 and 3 of this section are those members who:

(1) Are under the age of sixty-five years; and

(2) (a) Have at least twenty-five years of creditable service; or

(b) Have a total of age and years of creditable service which equals or exceeds eighty; or

(c) Meet the eligibility requirements for a duty disability pension under the provisions of section 86.670.

8. For purposes of this section, the term "member" shall include a surviving spouse who is entitled to a pension under sections 86.600 to 86.790. In determining which subsection or subsections are applicable in a given instance, the surviving spouse shall be deemed to have retired on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement. Any such surviving spouse of a member who dies while entitled to payments under this section shall

succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment hereunder prior to such member's death.**]**

[86.675. COST-OF-LIVING ADJUSTMENT — TERMS DEFINED. — 1. Any member, as defined in subsection 4 of this section, who is entitled to a pension under sections 86.600 to 86.790 may receive, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such base pension during any one year, provided that the retirement system shall remain actuarially sound. The determination of whether the retirement system will remain actuarially sound shall be made at the time such cost-of-living adjustment is granted. If at any time the retirement system becomes actuarially unsound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this subsection if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

2. The cost-of-living adjustment provided by this section shall be an increase or decrease computed on the base pension amount by the retirement board in an amount that the board, in its discretion, determines to be satisfactory, but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension.

3. In determining and granting the cost-of-living adjustments provided by this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board, and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year.

4. As used in this section, the term "base pension" shall mean the pension computed under the provisions of the law as of the date of retirement of the member without regard to cost-of-living adjustment. As used in this section, the term "member" shall include:

(1) A surviving spouse without regard to remarriage; and

(2) A surviving spouse, without regard to remarriage, who is receiving an optional annuity pursuant to an election pursuant to subsection 2 of section 86.650.

5. If a member who has been retired and receiving a pension dies after August 28, 2001, the surviving spouse of such member entitled to receive a base pension pursuant to section 86.690 shall also receive a percentage cost-of-living adjustment to his or her respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime pursuant to this section.**]**

[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 and pursuant to sections 86.600 to 86.790, in addition to such other benefits as such members or their beneficiaries are entitled to receive under and pursuant to sections 86.600 to 86.790, provided such city shall so request and shall agree to increase said city's contribution under and 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 under and pursuant to section 86.760, to provide all other benefits provided under and pursuant to sections 86.600 to 86.790.**]**

[86.680. EMPLOYEES TO REMAIN MEMBERS — TERMINATION OF MEMBERSHIP. — 1. Each person who becomes a member of this retirement system pursuant to the provisions of sections 86.600 to 86.790 shall remain a member until the earliest to occur of the following events:

(1) The termination of employment of such person by the applicable police department and the payment to him of all benefits due him pursuant to the provisions of sections 86.600 to 86.790, unless such termination of employment by the police department shall be for the purpose of entering military service in a national emergency;

(2) The termination of employment by the police department to enter military service in a national emergency and the failure of such person to return to employment by such department within one year after his discharge from the military service, unless there shall remain benefits due such person pursuant to the provisions of sections 86.600 to 86.790, in which event such person's membership shall terminate pursuant to this subdivision when there shall no longer remain any such benefits due such person; and

(3) The death of such person.

2. If the surviving spouse of a member is entitled to a pension benefit, such surviving spouse shall be a member of the retirement system for so long as such surviving spouse shall remain entitled to such benefit. Any beneficiary or survivor of a deceased member shall not be a member of this retirement system if such beneficiary or survivor is not a surviving spouse entitled to benefits pursuant to the provisions of sections 86.600 to 86.790, irrespective of whether there may remain benefits due such beneficiary or survivor from this system.**]**

[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, 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. (1) 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.

(2) Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a special consultant on the problems of retirement, aging, and other matters, for the remainder of such member's life, 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. Upon receipt of the proper proof of death of such member, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.**]**

[86.700. BOARD TO ADMINISTER SYSTEM — MEMBERS — AUTHORITY — ELECTION OF MEMBERS. — There shall be a retirement board whose members shall serve without compensation but shall be reimbursed from the pension fund for any necessary expenses which they may incur for service on the board. The board shall adopt rules and regulations for the administration of the affairs of the retirement system. The members of the retirement board for civilian employees of the retirement systems herein enacted shall be the same as the members of the retirement board for police officers as provided in section 86.393, and upon election or appointment as provided in section 86.393, shall be vested with full authority to administer the

retirement system provided in sections 86.600 to 86.790, and shall be vested with full authority to do all things necessary and required herein; but all funds received for the administration of this retirement system shall be kept separately and not commingled with funds included in retirement systems provided in sections 86.370 to 86.497. The members of this retirement system provided in sections 86.600 to 86.790 shall be entitled to vote in the election of elected members of the retirement board as provided in section 86.393.**]**

[86.710. BOARD MEMBERS TO TAKE OATH. — Each member of the retirement board shall, within ten days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system for civilian employees of the police department. The oath shall be subscribed to by the member and filed with the clerk of the city.**]**

[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.**]**

[86.730. RETIREMENT BOARDS — VOTES — RECORDS AND REPORTS — SEAL. — 1. Each member of the retirement board shall be entitled to one vote in the decisions of the board. Five votes or more in favor shall be necessary to pass a motion by the retirement board at any meeting of the board.

2. The retirement board shall keep in convenient form the data necessary for the administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually in pamphlet form a report prepared by certified public accountants showing the fiscal transactions of the retirement system for the preceding fiscal year, the status of assets and liabilities and the amount of cash on hand. One copy of the annual report shall be delivered to each member of the retirement system, one copy to each member of the retirement board, one copy shall be filed with the city clerk and one copy delivered to each member of the board of police commissioners. The retirement board shall cause an actuarial study and calculation to be made in 1968 based upon the experiences of the retirement system by an independent firm of pension actuaries and shall cause actuarial studies and calculations to be made each five years thereafter.

3. The retirement board shall before January tenth of each year certify to the chief financial officer of the city the amount to be paid by the city under the retirement pension system for the succeeding fiscal year.

4. The retirement board shall adopt a common seal. The retirement board may sue and be sued in its own name and the suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.**]**

[86.740. RULINGS OF BOARD — JUDICIAL REVIEW. — The retirement board's findings on all issues of fact shall be final and conclusive upon all parties concerned, when the findings are supported by competent and substantial evidence. Rulings of the retirement board on questions of law and whether the ruling is supported by competent and substantial evidence may be reviewed, upon application of any party, by the circuit court of the county in which the cities are 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 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 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 the person in connection with such action, suit or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe 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 the person did not have reasonable cause to believe that the relevant conduct was lawful.

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 subsections 1 and 2 of this section, or in defense of any claim, issue or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under 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 any person potentially entitled to indemnification hereunder is proper in the circumstances because 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.

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 person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.**]**

[86.750. BOARD SHALL BE TRUSTEES OF FUNDS — POWERS AND DUTIES. — 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.600 to 86.790. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the provisions of sections 86.600 to 86.790. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by the custodian in the name of the retirement system, or in the name of the nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited to the funds of the retirement system at frequent intervals satisfactory to the retirement board. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, except as otherwise provided in this section. No order shall be drawn unless it shall have previously been allowed by a specific or an ongoing generalized resolution of the retirement board. In the case of payments for benefits, services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment other than payments to members or beneficiaries for benefits shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board. All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board may contract with a bank or trust company to act as a custodian of the bonds and securities, in which case the retirement board may authorize such custodian bank or trust company to order purchases, loans or sales of investments by such custodian bank or trust company, and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment.**]**

[86.760. EMPLOYEE'S CONTRIBUTIONS TO BE DEDUCTED — CITIES TO CONTRIBUTE. — 1. Beginning October 1, 1965, the police board of the cities specified in sections 86.600 to

86.790 shall cause to be deducted from the salary or wages of each member of the civilian employees' retirement system an amount of his base rate of monthly compensation as determined by the retirement board, which amount shall not be less than five percent of his base rate of monthly compensation until the member's retirement.

2. The cities specified in sections 86.600 to 86.790 shall contribute to the retirement pension system such an amount as may be necessary to pay the pensions as they accrue from year to year, and such additional amounts as may be necessary to maintain the system on a sound actuarial basis and as determined by the retirement board as certified in section 86.730.**]**

[86.770. CONTRIBUTIONS CREDITED TO SYSTEM — BENEFITS, EXPENSES — EMPLOYER OBLIGATION. — All employer and member contributions or other payments to the retirement system and all income from investments shall be credited to the funds of the retirement system. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system. The payment of the benefits granted under the provisions of sections 86.600 to 86.790 and the expense in connection with the operation of the retirement system are hereby made obligations of the employer. All payments from the funds of the retirement system shall be made only upon voucher signed by two persons designated by the retirement board. No voucher shall be drawn unless it has been previously approved by the retirement board, either specifically or on an ongoing generalized basis as permitted by subsection 3 of section 86.750.**]**

[86.780. FUND MONEYS EXEMPT FROM EXECUTION — NOT ASSIGNABLE, EXCEPT FOR SUPPORT OBLIGATIONS. — The moneys in the various funds created pursuant to sections 86.600 to 86.790 are hereby exempt from any tax of the state of Missouri or of any other municipality or political subdivision thereof. Neither such funds, nor the right of any person to a benefit accruing pursuant to the provisions of sections 86.600 to 86.790 shall be subject to execution, garnishment, attachment, or to any other process whatsoever and the right shall be unassignable except as specifically provided in sections 86.600 to 86.790 and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.600 to 86.790. A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment, such as a request to apply some portion of a benefit payment to a medical insurance premium, shall not be deemed an assignment prohibited pursuant to this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.**]**

[86.790. FRAUD IN OBTAINING BENEFITS FORFEITS RIGHTS. — Any person who knowingly makes any false statement or falsifies or permits to be falsified any record in an attempt to defraud the retirement system forfeits all rights to which he may be entitled hereunder.**]**

Approved July 14, 2005

HB 342 [HB 342]

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 Cass County Commission to submit the formation of a board of election commissioners to a public vote

AN ACT to repeal section 115.019, RSMo, and to enact in lieu thereof one new section relating to board of election commissioners.

SECTION
A. Enacting clause.
115.019. Voters may petition to establish a board of election commissioners, procedure — form of petition.

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

SECTION A. ENACTING CLAUSE. — Section 115.019, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.019, to read as follows:

115.019. VOTERS MAY PETITION TO ESTABLISH A BOARD OF ELECTION COMMISSIONERS, PROCEDURE — FORM OF PETITION. — 1. Any group of registered voters from any county of the first class not having a board of election commissioners may circulate a petition for the formation of a board.

2. The petition shall be signed by the number of registered voters in the county equal to at least fifteen percent of the total votes cast in the county for governor at the last gubernatorial election.

3. Petitions proposing the formation of a board of election commissioners in any county of the first class shall be filed with the election authority of the county not later than 5:00 p.m. on the thirteenth Tuesday preceding a general election.

4. Each petition for the formation of a board of election commissioners shall consist of sheets of uniform size. The space for signatures on either side of a petition page shall be no larger than eight and one-half by fourteen inches, and each page shall contain signatures of registered voters from only one county. Each page of each petition for the formation of a board of election commissioners shall be in substantially the following form:

To the Honorable ....., county clerk of ..... County:

We, the undersigned, citizens and registered voters of ..... County, respectfully order that the following question be placed on the official ballot, for acceptance or rejection, at the next general election to be held on the ..... day of ....., ...:

"Should a board of election commissioners be established in ..... County to assume responsibility for the registration of voters and the conduct of elections?";

and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and ..... County; my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF .....

I, ..., a resident of the state of Missouri, being first duly sworn, say (print or type names of signers)

		REGISTERED VOTING			
NAME (Signature)	DATE SIGNED	ADDRESS (Street)(City, Town or Village)	ZIP CODE	CONGR DIST.	NAME (Printed or Typed)

(Here follow numbered lines for signers)

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and ..... County.

.....
Signature of Affiant

(Person obtaining signatures)

.....

Address of Affiant

Subscribed and sworn to before me this ..... day of ....., A.D. .....

.....

Signature of Notary

Notary Public (Seal)

My commission expires .....

If this form is followed substantially, it shall be sufficient, disregarding clerical and merely technical errors.

5. The validity of each petition filed pursuant to provisions of this section shall be determined in the manner provided for new party and independent candidate petitions in sections 115.333, 115.335 and 115.337.

6. Upon the filing of a valid petition for the formation of a board of election commissioners **or upon a majority vote of the county commission in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants**, it shall be the duty of the election authority to have the following question placed on the official ballot, in the same manner other questions are placed, at the next general election:

"Should a board of election commissioners be established in ..... County to assume responsibility for the registration of voters and the conduct of elections?"

7. The votes for and against the question shall be counted and certified in the same manner as votes on other questions.

8. If the question is approved by a majority of the voters at the election, a board of election commissioners shall be appointed as provided in this subchapter and shall have the same rights and responsibilities provided by law for all boards of election commissioners.

9. Any person who is a registered voter of a county of the first class not having a board of election commissioners may sign a petition for the formation of a board in the county. Any person who signs a name other than the person's own to any petition or knowingly signs the person's name more than once to the same petition or who knows the person is not a registered voter at the time of signing such petition, or any officer or person willfully violating any provision of this section shall be guilty of a class two election offense.

Approved June 22, 2005

HB 345 [HB 345]

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 county commissioner and county highway engineer nonvoting members of the county planning board in Cass County

AN ACT to repeal section 64.215, RSMo, and to enact in lieu thereof one new section relating to county planning boards.

SECTION

A. Enacting clause.

64.215. County planning board, members (exception for Cass County), terms, removal, expenses, chairman (noncharter first classification counties).

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

SECTION A. ENACTING CLAUSE. — Section 64.215, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 64.215, to read as follows:

64.215. COUNTY PLANNING BOARD, MEMBERS (EXCEPTION FOR CASS COUNTY), TERMS, REMOVAL, EXPENSES, CHAIRMAN (NONCHARTER FIRST CLASSIFICATION COUNTIES). — 1. Except as otherwise provided in subsection 2 of this section, the county planning board shall consist of one of the commissioners of the county commission selected by the county commission, the county highway engineer, both of whom shall serve during their tenure of office, **except that in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants such members shall be nonvoting members,** and six residents of the unincorporated territory of the county who shall be appointed by the county commission. The term of the six appointed members shall be four years or until their successor takes office, except that the original term of three of the six appointed members shall be two years. Members may be removed for cause by the county commission upon written charges after public hearings. Any vacancy may be filled by the county commission for the unexpired term of any member whose term becomes vacant, or until the member's successor takes office. All members of the board shall serve without compensation; except, that an attendance fee as reimbursement for expenses may be paid to the appointed members of the board in an amount, set by the county commission, not to exceed twenty-five dollars per meeting. The planning board shall elect its chairman from among the appointed members.

2. In any county of the first classification with a population of at least two hundred thousand inhabitants which does not adjoin any other county of the first classification, the county planning board may, at the option of the county commission, consist of one of the commissioners of the county commission selected by the county commission, and shall include the county highway engineer and six residents of the unincorporated territory of the county, who shall be appointed by the county commission. The county highway engineer and the county commissioner, if a member of the board, shall serve during such person's tenure of office. The term of the six appointed members shall be three years or until their successor takes office.

Approved June 22, 2005

HB 348 [HCS HB 348]

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 Missouri Military Preparedness and Enhancement Commission

AN ACT to amend chapter 41, RSMo, by adding thereto three new sections relating to the protection of military facilities and personnel, with an emergency clause.

SECTION

A. Enacting clause.
41.1010. Missouri military preparedness and enhancement commission established, purpose, members, duties.
41.1013. Planning and zoning for unincorporated areas near military bases (Johnson County).
41.1016. Military personnel to hold Missouri resident status, when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 41, RSMo, is amended by adding thereto three new sections, to be known as sections 41.1010, 41.1013, and 41.1016, to read as follows:

41.1010. MISSOURI MILITARY PREPAREDNESS AND ENHANCEMENT COMMISSION ESTABLISHED, PURPOSE, MEMBERS, DUTIES. — 1. There is hereby established the "Missouri Military Preparedness and Enhancement Commission". The commission shall have as its purpose the design and implementation of measures intended to protect, retain, and enhance the present and future mission capabilities at the military posts or bases within the state. The commission shall consist of nine members:

(1) Five members to be appointed by the governor;

(2) Two members of the house of representatives, one appointed by the speaker of the house of representatives, and one appointed by the minority floor leader;

(3) Two members of the senate, one appointed by the president pro tempore, and one appointed by the minority floor leader;

(4) The director of the department of economic development or the director's designee, ex officio.

No more than three of the five members appointed by the governor shall be of the same political party. To be eligible for appointment by the governor, a person shall have demonstrated experience in economic development, the defense industry, military installation operation, environmental issues, finance, local government, or the use of air space for future military missions. Appointed members of the commission shall serve three-year terms, except that of the initial appointments made by the governor, two shall be for one-year terms, two shall be for two-year terms, and one shall be for a three-year term. No appointed member of the commission shall serve more than six years total. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

2. Members of the commission shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's official duties.

3. A chair of the commission shall be selected by the members of the commission.

4. The commission shall meet at least quarterly and at such other times as the chair deems necessary.

5. The commission shall be funded by an appropriation limited to that purpose. Any expenditure constituting more than ten percent of the commission's annual appropriation shall be based on a competitive bid process.

6. The commission shall:

(1) Advise the governor and the general assembly on military issues and economic and industrial development related to military issues;

(2) Make recommendations regarding:

(a) Developing policies and plans to support the long-term viability and prosperity of the military, active and civilian, in this state, including promoting strategic regional alliances that may extend over state lines;

(b) Developing methods to improve private and public employment opportunities for former members of the military residing in this state; and

(c) Developing methods to assist defense-dependent communities in the design and execution of programs that enhance a community's relationship with military installations and defense-related businesses;

(3) Provide information to communities, the general assembly, the state's congressional delegation, and state agencies regarding federal actions affecting military installations and missions;

(4) Serve as a clearinghouse for:

(a) Defense economic adjustment and transition information and activities; and

(b) Information concerning the following:

a. Issues related to the operating costs, missions, and strategic value of federal military installations located in the state;

b. Employment issues for communities that depend on defense bases and in defense-related businesses; and

c. Defense strategies and incentive programs that other states are using to maintain, expand, and attract new defense contractors;

(5) Provide assistance to communities that have experienced a defense-related closure or realignment;

(6) Assist communities in the design and execution of programs that enhance a community's relationship with military installations and defense-related businesses, including regional alliances that may extend over state lines;

(7) Assist communities in the retention and recruiting of defense-related businesses, including fostering strategic regional alliances that may extend over state lines;

(8) Prepare a biennial strategic plan that:

(a) Fosters the enhancement of military value of the contributions of Missouri military installations to national defense strategies;

(b) Considers all current and anticipated base realignment and closure criteria; and

(c) Develops strategies to protect the state's existing military missions and positions the state to be competitive for new and expanded military missions;

(9) Encourage economic development in this state by fostering the development of industries related to defense affairs.

7. The commission shall prepare and present an annual report to the governor and the general assembly by December thirty-first of each year.

8. The department of economic development shall furnish administrative support and staff for the effective operation of the commission.

41.1013. PLANNING AND ZONING FOR UNINCORPORATED AREAS NEAR MILITARY BASES (JOHNSON COUNTY). — 1. The governing body or county planning commission, if any, of any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants shall provide for the planning, zoning, subdivision and building within all or any portion of the unincorporated area extending three thousand feet outward from the boundaries of any military base located in such county and the area within the perimeter of accident potential zones one and two if the county has a zoning commission and a board of adjustment established under sections 64.510 to 64.727, RSMo. As used in this section, the term "accident potential zones one and two" means any land area that was identified in the April, 1976 Air Installation Compatible Use Zone Report at the north and south ends of the clear zone of a military installation located in any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants and which is in significant danger of aircraft accidents by being beneath that airspace where the potential for aircraft accidents is most likely to occur.

41.1016. MILITARY PERSONNEL TO HOLD MISSOURI RESIDENT STATUS, WHEN. — For the purposes of student resident status, military personnel, when stationed within the state under military orders, their spouses, and their unemancipated children under twenty-four years of age who enroll in a Missouri community college, Missouri college, or Missouri state university shall be regarded as holding Missouri resident status.

SECTION B. EMERGENCY CLAUSE. — Because of the need for the state of Missouri to meet the deadline for military base reorganization, 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 22, 2005

HB 353 [CCS SS SCS HCS HB 353]

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 laws regarding crime prevention

AN ACT to repeal sections 1.160, 8.177, 43.010, 43.120, 43.509, 43.543, 105.711, 115.135, 115.155, 115.160, 115.631, 195.017, 211.031, 217.105, 217.705, 217.750, 302.321, 302.541, 304.022, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 367.031, 407.1355, 479.230, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.115, 559.607, 565.081, 565.082, 565.083, 566.083, 566.200, 566.223, 568.045, 568.050, 569.040, 569.080, 569.090, 570.030, 570.040, 570.080, 570.120, 570.145, 570.223, 570.255, 570.300, 575.150, 575.270, 576.050, 577.023, 577.041, 577.500, 590.040, 595.209, and 650.055, RSMo, and to enact in lieu thereof eighty-five new sections relating to crime, with penalty provisions, an emergency clause for certain sections, and a severability clause.

SECTION

A. Enacting clause.
1.160. Effect of repeal of penal statute.
8.177. Missouri capitol police officers, powers and duties.
43.010. Definitions.
43.120. Superintendent to regulate patrol — rank, appointment — officers to act in superintendent's absence — to compile criminal data — report.
43.300. Division created.
43.310. Director, appointed by superintendent — responsibility.
43.320. Assignment of highway patrol members to division — allocation of costs.
43.330. Duties of director.
43.509. Rulemaking authority, department of public safety — rulemaking procedure.
43.535. Municipal and county government, MULES criminal record review permitted — fee — fingerprinting, when — confidentiality.
43.543. Certain agencies to submit fingerprints, use of fingerprints for background search — procedure for submission.
105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.
115.135. Persons entitled to register, when — identification required.
115.155. Registration — oath.
115.160. Driver's license applicants to receive voter registration application, contents — rules — forwarding of application to election authority, when — documentation required.
115.348. Conviction or plea under federal laws, disqualification for elective public office.
115.631. Class one election offenses.
195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually.
211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
217.105. Corrections officer certification commission established — definitions — members, qualifications, removal, vacancies, compensation — duties — classifications may be established — records.
217.705. Probation, parole, institutional parole, officers — appointment — duties.
217.735. Lifetime supervision required for certain offenders — electronic monitoring — termination at age sixty-five permitted, when — rulemaking authority.
217.750. Probation services provided to circuit courts, when.
302.321. Driving while license or driving privilege is canceled, suspended or revoked, penalty — enhanced penalty for repeat offenders — imprisonment, mandatory, exception.
302.541. Additional reinstatement fee, license to operate motor vehicle, when — proof of financial responsibility, not required, when.
304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
306.112. Operating vessel with excessive blood alcohol content — penalty.
306.114. Grant of suspended imposition of sentence, requirements — validity of chemical tests — restrictions upon withdrawal of blood, procedure, no civil liability.

306.116. Operation of vessel deemed consent to chemical tests, when — limitation — procedure — information available.
306.117. Admissibility of results of chemical tests — presumption of intoxication.
306.119. Notification of right of refusal — refusal, effect, admissibility.
306.140. Accident or collision, duties of operator — report required, when.
306.147. Muffler, defined — noise level regulation, muffler system required, certification of manufacturer — exceptions — on-site test to measure noise levels, penalty — application of section.
367.031. Receipt for pledged property — contents — definitions — third-party charge for database — access to database information, limitations — error in data, procedure — loss of pawn ticket, effect.
407.1355. Social Security numbers, prohibited actions involving.
479.230. Absence of judge, procedure.
542.276. Who may apply for search warrant — contents of application, affidavit — where filed, hearing — contents of warrant — who may execute, return, when and how made — warrant deemed invalid, when.
544.170. Twenty hours detention on arrest without warrant — twenty-four hours detention for certain offenses, rights of confinee — violations, penalty.
545.550. Defendant in custody, to be removed, when — which county jail to house defendant.
556.036. Time limitations.
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 — restitution fund.
559.016. Terms of probation — extension.
559.036. Duration of probation — revocation.
559.105. Restitution may be ordered for tampering and stealing offenses — limitation on release from probation.
559.106. Lifetime supervision of certain offenders — electronic monitoring — termination at age sixty-five permitted, when.
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.
559.607. Municipal ordinance violations, probation may be contracted for by municipal courts, procedure — cost to be paid by offenders, exceptions.
565.081. Assault of a law enforcement officer, emergency personnel or probation and parole officer in the first degree, definition, penalty.
565.082. Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the second degree, definition, penalty.
565.083. Assault of a law enforcement officer, emergency personnel or probation and parole officer in the third degree, definition, penalty.
566.083. Sexual misconduct involving a child, penalty.
566.086. Sexual contact with a student while on public school property.
566.200. Definitions.
566.221. International marriage brokers, notice to recruits — criminal history record and marital history record to be disseminated — client requirements — violations, penalty.
566.223. Federal Trafficking Victims Protection Act of 2000 to apply, when.
568.045. Endangering the welfare of a child in the first degree, penalties.
568.050. Endangering the welfare of a child in the second degree.
569.040. Arson in the first degree.
569.080. Tampering in the first degree.
569.090. Tampering in the second degree.
570.030. Stealing — penalties.
570.040. Stealing, third offense.
570.080. Receiving stolen property.
570.120. Crime of passing bad checks, penalty — actual notice given, when — administrative handling costs, amount, deposit in fund — use of fund — additional costs, amount — payroll checks, action, when — service charge may be collected — return of bad check to depositor by financial institution must be on condition that issuer is identifiable.
570.145. Financial exploitation of the elderly and disabled, penalty — definitions.
570.223. Identity theft — penalty — restitution — other civil remedies available — exempted activities.
570.255. Violations, how punished — forfeiture and destruction of items — penalties not exclusive.
570.300. Theft of cable television service, penalty.
575.150. Resisting or interfering with arrest — penalty.
575.205. Tampering with electronic monitoring equipment.
575.206. Violating a condition of lifetime supervision.
575.270. Tampering with a witness — tampering with a victim.
576.050. Misuse of official information.
577.023. Persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.

577.041. Refusal to submit to chemical test — notice, report of peace officer, contents — revocation of license, hearing — evidence, admissibility — reinstatement of licenses — substance abuse traffic offender program — assignment recommendations, judicial review — fees.
577.500. Suspension or revocation of driving privileges, persons under twenty-one years of age — violation of certain laws — surrender of licenses — court to forward to director of revenue — period of suspension.
577.625. Distribution of prescription medication on public or private school property — exceptions — violations, penalty.
577.628. Possession of prescription medications on public or private school property — exceptions — violation, penalty.
578.500. Operating an audiovisual recording device in a motion picture theater — definitions — violations, penalty.
590.040. Minimum hours of basic training required.
595.209. Rights of victims and witnesses — written notification, requirements.
595.210. Victims of sexually violent offenses, right to testify at parole hearings.
650.030. State firearms training and qualification standard for retired law enforcement officers carrying concealed weapons, rules.
650.055. Felony convictions for certain offenses to have biological samples collected, when — use of sample — highway patrol and department of corrections, duty — DNA records and biological materials to be closed record, disclosure, when — expungement of record, when — liability of guilty person.
B. Emergency clause.
C. Severability clause.

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

SECTION A. ENACTING CLAUSE. — Sections 1.160, 8.177, 43.010, 43.120, 43.509, 43.543, 105.711, 115.135, 115.155, 115.160, 115.631, 195.017, 211.031, 217.105, 217.705, 217.750, 302.321, 302.541, 304.022, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 367.031, 407.1355, 479.230, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.115, 559.607, 565.081, 565.082, 565.083, 566.083, 566.200, 566.223, 568.045, 568.050, 569.040, 569.080, 569.090, 570.030, 570.040, 570.080, 570.120, 570.145, 570.223, 570.255, 570.300, 575.150, 575.270, 576.050, 577.023, 577.041, 577.500, 590.040, 595.209, and 650.055, RSMo, are repealed and eighty-five new sections enacted in lieu thereof, to be known as sections 1.160, 8.177, 43.010, 43.120, 43.300, 43.310, 43.320, 43.330, 43.509, 43.535, 43.543, 105.711, 115.135, 115.155, 115.160, 115.348, 115.631, 195.017, 211.031, 217.105, 217.705, 217.735, 217.750, 302.321, 302.541, 304.022, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 367.031, 407.1355, 479.230, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.105, 559.106, 559.115, 559.607, 565.081, 565.082, 565.083, 566.083, 566.086, 566.200, 566.221, 566.223, 568.045, 568.050, 569.040, 569.080, 569.090, 570.030, 570.040, 570.080, 570.120, 570.145, 570.223, 570.255, 570.300, 575.150, 575.205, 575.206, 575.270, 576.050, 577.023, 577.041, 577.500, 577.625, 577.628, 578.500, 590.040, 595.209, 595.210, 650.030, and 650.055, to read as follows:

1.160. EFFECT OF REPEAL OF PENAL STATUTE. — No offense committed and no fine, penalty or forfeiture incurred, or prosecution commenced or pending previous to or at the time when any statutory provision is repealed or amended, shall be affected by the repeal or amendment, but the trial and punishment of all such offenses, and the recovery of the fines, penalties or forfeitures shall be had, in all respects, as if the provision had not been repealed or amended, except**[**:

(1)**]** that all such proceedings shall be conducted according to existing procedural laws**[**; and

(2) That if the penalty or punishment for any offense is reduced or lessened by any alteration of the law creating the offense prior to original sentencing, the penalty or punishment shall be assessed according to the amendatory law**]**.

8.177. MISSOURI CAPITOL POLICE OFFICERS, POWERS AND DUTIES. — 1. The director of the department of public safety shall employ Missouri capitol police officers for public safety at the seat of state government. Each Missouri capitol police officer, upon appointment, shall take and subscribe an oath of office to support the constitution and laws of the United States and

the state of Missouri and shall receive a certificate of appointment, a copy of which shall be filed with the secretary of state, granting such police officers all the same powers of arrest held by other police officers to maintain order and preserve the peace in all state-owned or leased buildings, and the grounds thereof, at the seat of government and such buildings and grounds within the county which contains the seat of government.

2. The director of the department of public safety shall appoint a sufficient number of Missouri capitol police officers, with available appropriations, as appropriated specifically for the purpose designated in this subsection, so that the capitol grounds may be patrolled at all times, and that traffic and parking upon the capitol grounds and the grounds of other state buildings owned or leased within the capital city and the county which contains the seat of government may be properly controlled. Missouri capitol police officers may make arrests for the violation of parking and traffic regulations promulgated by the office of administration.

3. Missouri capitol police officers shall be authorized to arrest a person anywhere in the county that contains the seat of state government, when there is probable cause to believe the person committed a crime within capitol police jurisdiction or when a person commits a crime within capitol police jurisdiction or when a person commits a crime in the presence of an on-duty capitol police officer.

43.010. DEFINITIONS. — As used in this chapter, the following terms shall have the meanings indicated:

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

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

(3) "Mules", Missouri uniform law enforcement system, a statewide-computerized communications system provided by the patrol designed to provide services, information, and capabilities to the law enforcement and criminal justice community in the state of Missouri;

[(3)**] (4)** "Patrol", the Missouri state highway patrol;

[(4)**] (5)** "Peace officers", sheriffs, police officers and other peace officers of this state;

[(5)**] (6)** "Radio personnel", those employees of the patrol engaged in the construction, operation, and maintenance of the patrol radio system.

43.120. SUPERINTENDENT TO REGULATE PATROL — RANK, APPOINTMENT — OFFICERS TO ACT IN SUPERINTENDENT'S ABSENCE — TO COMPILE CRIMINAL DATA — REPORT. — 1. The superintendent shall prescribe rules for instruction and discipline and make all administrative rules and regulations and fix the hours of duty for the members of the patrol. The superintendent shall divide the state into districts and assign members of the patrol to such districts in the manner as deemed proper to carry out the purposes of this chapter. The superintendent may call members of the patrol from one district to another.

2. The superintendent shall appoint the lieutenant colonel and five majors from within the membership. Such individuals shall serve at the superintendent's pleasure and shall return to their previously held rank after being relieved of their position duties by the present or incoming superintendent. The superintendent shall classify and rank through promotions the majors, the director of radio, captains, lieutenants, sergeants, corporals, patrolmen, and radio personnel from the next lower grade after not less than one year of service satisfactorily performed therein.

3. In case of the absence of the superintendent, or at the time the superintendent designates, the lieutenant colonel shall assume the duties of the superintendent. In the absence of both the superintendent and the lieutenant colonel, a major shall be designated by the superintendent or by the lieutenant colonel. In case of the disability of the superintendent and the lieutenant colonel, the governor may designate a major as acting superintendent and when so designated, the acting superintendent shall have all the powers and duties of the superintendent.

4. The superintendent shall collect, compile and keep available for the use of peace officers of the state the information as is deemed necessary for the detection of crime and identification of criminals.

5. The superintendent is responsible for establishing policy, procedures, and regulations in cooperation with the law enforcement and criminal justice community in protecting the integrity of the MULES system. The superintendent shall be responsible for the administration and enforcement of all MULES policies and regulations consistent with state and federal rules, policy, and law by which the MULES system operates.

[5.**]** **6.** Within ninety days after the close of each fiscal year, the superintendent shall make to the governor and the commission a report of the activities of the patrol and the cost thereof for the fiscal period.

43.300. DIVISION CREATED. — Notwithstanding the provisions of subsection 1 of section 43.025, there is hereby created within the Missouri state highway patrol a "Governor's Security Division".

43.310. DIRECTOR, APPOINTED BY SUPERINTENDENT — RESPONSIBILITY. — The superintendent of the Missouri state highway patrol shall appoint from the membership of the patrol, a director of the governor's security division who shall be responsible for the operation of the division.

43.320. ASSIGNMENT OF HIGHWAY PATROL MEMBERS TO DIVISION — ALLOCATION OF COSTS. — 1. The superintendent of the Missouri state highway patrol may assign highway patrol members under the superintendent's command to serve in the governor's security division on a permanent or temporary basis.

2. All salaries, expenses and other costs relating to the assignment of Missouri state highway patrol members to the governor's security division shall be paid within the limits of appropriations from general revenue, or from such other funding as may be authorized by the general assembly.

43.330. DUTIES OF DIRECTOR. — 1. The director of the governor's security division shall provide transportation, security, and protection for the governor and the governor's immediate family.

2. At the discretion of the superintendent, the director of the governor's security division may also provide transportation, security, and protection for other public officials.

43.509. RULEMAKING AUTHORITY, DEPARTMENT OF PUBLIC SAFETY — RULEMAKING PROCEDURE. — The director of the department of public safety shall, in accordance with the provisions of chapter 536, RSMo, establish such rules and regulations as are necessary to implement the provisions of sections 43.500 to **[**43.530**]** **43.543**. All collection and dissemination of criminal history information shall be in compliance with chapter 610, RSMo, and applicable federal laws or regulations. Such rules shall relate to the collection of criminal history information from or dissemination of such information to criminal justice, noncriminal justice, and private agencies or citizens both in this and other states. No rule or portion of a rule promulgated under the authority of sections 43.500 to **[**43.530**]** **43.543** shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

43.535. MUNICIPAL AND COUNTY GOVERNMENT, MULES CRIMINAL RECORD REVIEW PERMITTED — FEE — FINGERPRINTING, WHEN — CONFIDENTIALITY. — **1. Law enforcement agencies within the state of Missouri may perform a Missouri criminal record review for only open records through the MULES system for the purpose of hiring of municipal or county governmental employees. For each request, other than those**

related to the administration of criminal justice, the requesting entity shall pay a fee to the central repository, pursuant to section 43.530. For purposes of this section, "requesting entity" shall not be the law enforcement agency unless the request is made by the law enforcement agency for purposes of hiring law enforcement personnel.

2. Municipalities and counties may, by local or county ordinance, require the fingerprinting of applicants or licensees in specified occupations for the purpose of receiving criminal history record information by local or county officials. A copy of the ordinance must be forwarded for approval to the Missouri state highway patrol prior to the submission of fingerprints to the central repository. The local or county law enforcement agency shall submit a set of fingerprints of the applicant or licensee, accompanied with the appropriate fees, to the central repository for the purpose of checking the person's criminal history. The set of fingerprints shall be used to search the Missouri criminal records repository and 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. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the municipal or county officials making the record request.

3. 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.

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, the division of professional registration of the department of economic development, the department of social services, the supreme court of Missouri, **the state court administrator,** the department of elementary and secondary education, the Missouri lottery, **[**and**]** the Missouri gaming commission, **or any state, municipal, or county agency** 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**, municipal, or county** agency or committee**, or state school of higher education** which is authorized by state statute or executive order**, or local or county ordinance** to screen applicants or candidates seeking or considered for employment, assignment, **contracting,** or appointment to a position within state**, municipal, or county** 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**, municipal, or county** agency making the record request.

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS

— FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; or

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities **[**or county jails**]** on a part-time basis**, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis**;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, dental, or nursing treatment within the scope of his license or registration at a city or county health department organized under chapter 192, RSMo, or chapter

205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such treatment is restricted to primary care and preventive health services, provided that such treatment shall not include the performance of an abortion, and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. Medicaid or medicare payments for primary care and preventive health services provided by a physician, dentist, physician assistant, dental hygienist, or nurse who volunteers at a free health clinic is not compensation for the purpose of this section if the total payment is assigned to the free health clinic. For the purposes of the section, "free health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician, dentist, physician assistant, dental hygienist, or nurse shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph; or

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(4) Staff employed by the juvenile division of any judicial circuit; or

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), and (e) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 6 of this section, shall not apply to any claim or judgment arising under

paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any physician, dentist, physician assistant, dental hygienist, or nurse for coverage concerning his or her private practice and assets shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. However, a physician, nurse, dentist, physician assistant, or dental hygienist may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), and (e) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 6 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a physician, dentist, physician assistant, dental hygienist, or nurse described in paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs.

6. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

7. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

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

2. A person applying to register with an election authority or a deputy registration official shall **[**present**] identify himself or herself by presenting** a **copy of a birth certificate, a Native American tribal document, other proof of United States citizenship, a** valid Missouri drivers license or other form of personal identification at the time of registration.

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote.

115.155. REGISTRATION — OATH. — 1. The election authority shall provide for the registration of each voter. Each application shall be in substantially the following form:

APPLICATION FOR REGISTRATION

Are you a citizen of the United States?

[ ] YES [ ] NO

Will you be 18 years of age on or before election day?

[ ] YES [ ] NO

IF YOU CHECKED "NO" IN RESPONSE TO EITHER OF THESE QUESTIONS, DO NOT COMPLETE THIS FORM.

IF YOU ARE SUBMITTING THIS FORM BY MAIL AND ARE REGISTERING FOR THE FIRST TIME, PLEASE SUBMIT A COPY OF A CURRENT, VALID PHOTO IDENTIFICATION **[**OR A COPY OF A CURRENT UTILITY BILL, BANK STATEMENT, GOVERNMENT CHECK, PAYCHECK, OR GOVERNMENT DOCUMENT THAT SHOWS YOUR NAME AND ADDRESS**]**. IF YOU DO NOT SUBMIT SUCH INFORMATION, YOU WILL BE REQUIRED TO PRESENT ADDITIONAL IDENTIFICATION UPON VOTING FOR THE FIRST TIME **SUCH AS A BIRTH CERTIFICATE, A NATIVE AMERICAN TRIBAL DOCUMENT, OTHER PROOF OF UNITED STATES CITIZENSHIP, A VALID MISSOURI DRIVERS LICENSE OR OTHER FORM OF PERSONAL IDENTIFICATION**.

	.....
	Township (or Ward)
.....	.....
Name	Precinct
.....	.....

Home Address	Required Personal Identification Information
..... City ZIP	
..... Date of Birth	..... Place of Birth (Optional)
..... Telephone Number (Optional)	..... Mother's Maiden Name (Optional)
..... Occupation (Optional)	..... Last Place Previously Registered
..... Last four digits of Social Security Number (Required for registration unless no Social Security number exists for Applicant)	..... Under What Name
Remarks:	..... When

I am a citizen of the United States and a resident of the state of Missouri. I have not been adjudged incapacitated by any court of law. If I have been convicted of a felony or of a misdemeanor connected with the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I do solemnly swear that all statements made on this card are true to the best of my knowledge and belief. **I UNDERSTAND THAT IF I REGISTER TO VOTE KNOWING THAT I AM NOT LEGALLY ENTITLED TO REGISTER, I AM COMMITTING A CLASS ONE ELECTION OFFENSE AND MAY BE PUNISHED BY IMPRISONMENT OF NOT MORE THAN FIVE YEARS OR BY A FINE OF BETWEEN TWO THOUSAND FIVE HUNDRED DOLLARS AND TEN THOUSAND DOLLARS OR BY BOTH SUCH IMPRISONMENT AND FINE.**

..... Signature of Voter	..... Date

..... Signature of Election Official

2. After supplying all information necessary for the registration records, each applicant who appears in person before the election authority shall swear or affirm the statements on the registration application by signing his or her full name, witnessed by the signature of the election authority or such authority's deputy registration official. Each applicant who applies to register by mail pursuant to section 115.159, or pursuant to section 115.160 or 115.162, shall attest to the statements on the application by his or her signature.

3. Upon receipt by mail of a completed and signed voter registration application, a voter registration application forwarded by the division of motor vehicle and drivers licensing of the department of revenue pursuant to section 115.160, or a voter registration agency pursuant to section 115.162, the election authority shall, if satisfied that the applicant is entitled to register, transfer all data necessary for the registration records from the application to its registration system. Within seven business days after receiving the application, the election authority shall send the applicant a verification notice. If such notice is returned as undeliverable by the postal service within the time established by the election authority, the election authority shall not place the applicant's name on the voter registration file.

4. If, upon receipt by mail of a voter registration application or a voter registration application forwarded pursuant to section 115.160 or 115.162, the election authority determines

that the applicant is not entitled to register, such authority shall, within seven business days after receiving the application, so notify the applicant by mail and state the reason such authority has determined the applicant is not qualified. The applicant may have such determination reviewed pursuant to the provisions of section 115.223. If an applicant for voter registration fails to answer the question on the application concerning United States citizenship, the election authority shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form before the next election.

5. It shall be the responsibility of the secretary of state to prescribe specifications for voter registration documents so that they are uniform throughout the state of Missouri and comply with the National Voter Registration Act of 1993, including the reporting requirements, and so that registrations, name changes and transfers of registrations within the state may take place as allowed by law.

6. All voter registration applications shall be preserved in the office of the election authority.

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

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

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

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

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

6. A completed voter registration application accepted in the driver's licensing process shall be transmitted to the election authority described in subsection 5 of this section not later than five business days after the form is completed by the applicant.

7. Any person registering to vote when applying for or renewing a Missouri driver's license shall submit with the application form a copy of a birth certificate, a Native American tribal document, or other proof of United States citizenship, a valid Missouri drivers license, or other form of personal identification.

115.348. CONVICTION OR PLEA UNDER FEDERAL LAWS, DISQUALIFICATION FOR ELECTIVE PUBLIC OFFICE. — No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America.

115.631. CLASS ONE ELECTION OFFENSES. — The following offenses, and any others specifically so described by law, shall be class one election offenses and are deemed felonies connected with the exercise of the right of suffrage. Conviction for any of these offenses shall

be punished by imprisonment of not more than five years or by fine of not less than two thousand five hundred dollars but not more than ten thousand dollars or by both such imprisonment and fine:

(1) Willfully and falsely making any certificate, affidavit, or statement required to be made pursuant to any provision of sections 115.001 to 115.641 and sections 51.450 and 51.460, RSMo, including but not limited to statements specifically required to be made "under penalty of perjury"; or in any other manner knowingly furnishing false information to an election authority or election official engaged in any lawful duty or action in such a way as to hinder or mislead the authority or official in the performance of official duties**. If an individual willfully and falsely makes any certificate, affidavit, or statement required to be made under section 115.155, including but not limited to statements specifically required to be made "under penalty of perjury", such individual shall be guilty of a class C felony**;

(2) Voting more than once or voting at any election knowing that the person is not entitled to vote or that the person has already voted on the same day at another location inside or outside the state of Missouri;

(3) Procuring any person to vote knowing the person is not lawfully entitled to vote or knowingly procuring an illegal vote to be cast at any election;

(4) Applying for a ballot in the name of any other person, whether the name be that of a person living or dead or of a fictitious person, or applying for a ballot in his own or any other name after having once voted at the election inside or outside the state of Missouri;

(5) Aiding, abetting or advising another person to vote knowing the person is not legally entitled to vote or knowingly aiding, abetting or advising another person to cast an illegal vote;

(6) An election judge knowingly causing or permitting any ballot to be in the ballot box at the opening of the polls and before the voting commences;

(7) Knowingly furnishing any voter with a false or fraudulent or bogus ballot, or knowingly practicing any fraud upon a voter to induce him to cast a vote which will be rejected, or otherwise defrauding him of his vote;

(8) An election judge knowingly placing or attempting to place or permitting any ballot, or paper having the semblance of a ballot, to be placed in a ballot box at any election unless the ballot is offered by a qualified voter as provided by law;

(9) Knowingly placing or attempting to place or causing to be placed any false or fraudulent or bogus ballot in a ballot box at any election;

(10) Knowingly removing any legal ballot from a ballot box for the purpose of changing the true and lawful count of any election or in any other manner knowingly changing the true and lawful count of any election;

(11) Knowingly altering, defacing, damaging, destroying or concealing any ballot after it has been voted for the purpose of changing the lawful count of any election;

(12) Knowingly altering, defacing, damaging, destroying or concealing any poll list, report, affidavit, return or certificate for the purpose of changing the lawful count of any election;

(13) On the part of any person authorized to receive, tally or count a poll list, tally sheet or election return, receiving, tallying or counting a poll list, tally sheet or election return the person knows is fraudulent, forged or counterfeit, or knowingly making an incorrect account of any election;

(14) On the part of any person whose duty it is to grant certificates of election, or in any manner declare the result of an election, granting a certificate to a person the person knows is not entitled to receive the certificate, or declaring any election result the person knows is based upon fraudulent, fictitious or illegal votes or returns;

(15) Willfully destroying or damaging any official ballots, whether marked or unmarked, after the ballots have been prepared for use at an election and during the time they are required by law to be preserved in the custody of the election judges or the election authority;

(16) Willfully tampering with, disarranging, altering the information on, defacing, impairing or destroying any voting machine or marking device after the machine or marking device has

been prepared for use at an election and during the time it is required by law to remain locked and sealed with intent to impair the functioning of the machine or marking device at an election, mislead any voter at the election, or to destroy or change the count or record of votes on such machine;

(17) Registering to vote knowing the person is not legally entitled to register or registering in the name of another person, whether the name be that of a person living or dead or of a fictitious person;

(18) Procuring any other person to register knowing the person is not legally entitled to register, or aiding, abetting or advising another person to register knowing the person is not legally entitled to register;

(19) Knowingly preparing, altering or substituting any computer program or other counting equipment to give an untrue or unlawful result of an election;

(20) On the part of any person assisting a blind or disabled person to vote, knowingly failing to cast such person's vote as such person directs;

(21) On the part of any registration or election official, permitting any person to register to vote or to vote when such official knows the person is not legally entitled to register or not legally entitled to vote;

(22) On the part of a notary public acting in his official capacity, knowingly violating any of the provisions of sections 115.001 to 115.627 or any provision of law pertaining to elections;

(23) Violation of any of the provisions of sections 115.275 to 115.303, or of any provision of law pertaining to absentee voting;

(24) Assisting a person to vote knowing such person is not legally entitled to such assistance, or while assisting a person to vote who is legally entitled to such assistance, in any manner coercing, requesting or suggesting that the voter vote for or against, or refrain from voting on any question, ticket or candidate.

195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY. — 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

(1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl;
(b) Acetylmethadol;
(c) Allylprodine;
(d) Alphacetylmethadol;
(e) Alphameprodine;
(f) Alphamethadol;
(g) Alpha-methylfentanyl;
(h) Alpha-methylthiofentanyl;
(i) Benzethidine;
(j) Betacetylmethadol;
(k) Beta-hydroxyfentanyl;
(l) Beta-hydroxy-3-methylfentanyl;
(m) Betameprodine;
(n) Betamethadol;
(o) Betaprodine;

(p) Clonitazene;
(q) Dextromoramide;
(r) Diampromide;
(s) Diethylthiambutene;
(t) Difenoxin;
(u) Dimenoxadol;
(v) Dimepheptanol;
(w) Dimethylthiambutene;
(x) Dioxaphetyl butyrate;
(y) Dipipanone;
(z) Ethylmethylthiambutene;
(aa) Etonitazene;
(bb) Etoxeridine;
(cc) Furethidine;
(dd) Hydroxypethidine;
(ee) Ketobemidone;
(ff) Levomoramide;
(gg) Levophenacylmorphan;
(hh) 3-Methylfentanyl;
(ii) 3-Methylthiofentanyl;
(jj) Morpheridine;
(kk) MPPP;
(ll) Noracymethadol;
(mm) Norlevorphanol;
(nn) Normethadone;
(oo) Norpipanone;
(pp) Para-fluorofentanyl;
(qq) PEPAP;
(rr) Phenadoxone;
(ss) Phenampromide;
(tt) Phenomorphan;
(uu) Phenoperidine;
(vv) Piritramide;
(ww) Proheptazine;
(xx) Properidine;
(yy) Propiram;
(zz) Racemoramide;
(aaa) Thiofentanyl;
(bbb) Tilidine;
(ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine;
(b) Acetyldihydrocodeine;
(c) Benzylmorphine;
(d) Codeine methylbromide;
(e) Codeine-N-Oxide;
(f) Cyprenorphine;
(g) Desomorphine;
(h) Dihydromorphine;
(i) Drotebanol;

(j) Etorphine; (except Hydrochloride Salt);
(k) Heroin;
(l) Hydromorphinol;
(m) Methyldesorphine;
(n) Methyldihydromorphine;
(o) Morphine methylbromide;
(p) Morphine methyl sulfonate;
(q) Morphine-N-Oxide;
(r) Morphine;
(s) Nicocodeine;
(t) Nicomorphine;
(u) Normorphine;
(v) Pholcodine;
(w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 4-brome-2,5-dimethoxyamphetamine;
(b) 4-bromo-2, 5-dimethoxyphenethylamine;
(c) 2,5-dimethoxyamphetamine;
(d) 2,5-dimethoxy-4-ethylamphetamine;
(e) **2,5-dimethoxy-4-(n)-propylthiophenethylamine;**
(f) 4-methoxyamphetamine;
[(f)**] (g)** 5-methoxy-3,4-methylenedioxyamphetamine;
[(g)**] (h)** 4-methyl-2,5-dimethoxy amphetamine;
[(h)**] (i)** 3,4-methylenedioxyamphetamine;
[(i)**] (j)** 3,4-methylenedioxymethamphetamine;
[(j)**] (k)** 3,4-methylenedioxy-N-ethylamphetamine;
[(k)**] (l)** N-nydroxy-3, 4-methylenedioxyamphetamine;
[(l)**] (m)** 3,4,5-trimethoxyamphetamine;
[(m)**] (n)** Alpha-ethyltryptamine;
(o) Benzylpiperazine or B.P.;
[(n)**] (p)** Bufotenine;
[(o)**] (q)** Diethyltryptamine;
[(p)**] (r)** Dimethyltryptamine;
[(q)**] (s)** Ibogaine;
[(r)**] (t)** Lysergic acid diethylamide;
[(s)**] (u)** Marijuana; (Marihuana);
[(t)**] (v)** Mescaline;
[(u)**] (w)** Parahexyl;
[(v)**] (x)** Peyote, to include all parts of the plant presently classified botanically as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
[(w)**] (y)** N-ethyl-3-piperidyl benzilate;
[(x)**] (z)** N-methyl-3-piperidyl benzilate;
[(y)**] (aa)** Psilocybin;
[(z)**] (bb)** Psilocyn;
[(aa)**] (cc)** Tetrahydrocannabinols;
[(bb)**] (dd)** Ethylamine analog of phencyclidine;

[(cc)**] (ee)** Pyrrolidine analog of phencyclidine;

[(dd)**] (ff)** Thiophene analog of phencyclidine;

(gg) 1-(3-Trifluoromethylphenyl)piperazine or TFMPP;

[(ee)**] (hh)** 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;

(ii) Salvia divinorum;

(jj) Salvinorin A;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Gamma hydroxybutyric acid;

(b) Mecloqualone;

(c) Methaqualone;

(6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Aminorex;

(b) Cathinone;

(c) Fenethylline;

(d) Methcathinone;

(e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro- 4-methyl-5-phenyl-2-oxazolamine);

(f) N-ethylamphetamine;

(g) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers**;**

(c) Alpha-Methyltryptamine, or (AMT);

(d) 5-Methoxy-N,N-Diisopropyltryptamine, or(5-MeO- DIPT);

(8) Khat, to include all parts of the plant presently classified botanically as catha edulis, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.

3. The department of health and senior services shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

a. Raw opium;

b. Opium extracts;

c. Opium fluid;

d. Powdered opium;
e. Granulated opium;
f. Tincture of opium;
g. Codeine;
h. Ethylmorphine;
i. Etorphine hydrochloride;
j. Hydrocodone;
k. Hydromorphone;
l. Metopon;
m. Morphine;
n. Oxycodone;
o. Oxymorphone;
p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) Alfentanil;
(b) Alphaprodine;
(c) Anileridine;
(d) Bezitramide;
(e) Bulk Dextropropoxyphene;
(f) Carfentanil;
(g) Butyl nitrite;
(h) Dihydrocodeine;
(i) Diphenoxylate;
(j) Fentanyl;
(k) Isomethadone;
(l) Levo-alphacetylmethadol;
(m) Levomethorphan;
(n) Levorphanol;
(o) Metazocine;
(p) Methadone;
(q) Meperidine;
(r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
(s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane — carboxylic acid;
(t) Pethidine;
(u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
(v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperdine-4-carboxylic acid;
(x) Phenazocine;
(y) Piminodine;

(z) Racemethorphan;

(aa) Racemorphan;

(bb) **[**Sulfentanil**] Sufentanil**;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Methamphetamine, its salts, isomers, and salts of its isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital;

(b) Glutethimide;

(c) Pentobarbital;

(d) Phencyclidine;

(e) Secobarbital;

(5) Any material, compound or compound which contains any quantity of **[**the following substances:

(a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(b)**]** Nabilone;

(6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;

(b) Immediate precursors to phencyclidine (PCP):

a. 1-phenylcyclohexylamine;

b. 1-piperidinocyclohexanecarbonitrile (PCC).

5. The department of health and senior services shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

6. The controlled substances listed in this subsection are included in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

a. Amobarbital;

b. Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;

c. Secobarbital;

d. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

(d) Chlorhexadol;

(e) Ketamine, its salts, isomers, and salts of isomers;

(f) Lysergic acid;

(g) Lysergic acid amide;

(h) Methyprylon;

(i) Sulfondiethylmethane;

(j) Sulfonethylmethane;

(k) Sulfonmethane;

(l) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) **Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine.**

(6) Anabolic steroids. **Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for**

human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph. Unless **[**specially**] specifically** excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(a) Boldenone;
(b) Chlorotestosterone (4-Chlortestosterone);
(c) Clostebol;
(d) Dehydrochlormethyltestosterone;
(e) Dihydrostestosterone (4-Dihydro-testosterone);
(f) Drostanolone;
(g) Ethylestrenol;
(h) Fluoxymesterone;
(i) Formebulone (Formebolone);
(j) Mesterolone;
(k) Methandienone;
(l) Methandranone;
(m) Methandriol;
(n) Methandrostenolone;
(o) Methenolone;
(p) Methyltestosterone;
(q) Mibolerone;
(r) Nandrolone;
(s) Norethandrolone;
(t) Oxandrolone;
(u) Oxymesterone;
(v) Oxymetholone;
(w) Stanolone;
(x) Stanozolol;
(y) Testolactone;
(z) Testosterone;
(aa) Trenbolone;

(bb) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for that administration.

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product. Some other names for dronabinol: (6aR-trans)-6a,7,8,10a- tetrahydro-6.6.9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol, or (-)-delta-9-(trans)- tetrahydracannabinol).

[(6)**] (8)** The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethy-lamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alprazolam;
(b) Barbital;
(c) Bromazepam;
(d) Camazepam;
(e) Chloral betaine;
(f) Chloral hydrate;
(g) Chlordiazepoxide;
(h) Clobazam;
(i) Clonazepam;
(j) Clorazepate;
(k) Clotiazepam;
(l) Cloxazolam;
(m) Delorazepam;
(n) Diazepam;
(o) **Dichloralphenazone;**
(p) Estazolam;
[(p)**] (q)** Ethchlorvynol;
[(q)**] (r)** Ethinamate;
[(r)**] (s)** Ethyl loflazepate;
[(s)**] (t)** Fludiazepam;
[(t)**] (u)** Flunitrazepam;
[(u)**] (v)** Flurazepam;
[(v)**] (w)** Halazepam;
[(w)**] (x)** Haloxazolam;
[(x)**] (y)** Ketazolam;
[(y)**] (z)** Loprazolam;
[(z)**] (aa)** Lorazepam;
[(aa)**] (bb)** Lormetazepam;

[(bb)**] (cc)** Mebutamate;
[(cc)**] (dd)** Medazepam;
[(dd)**] (ee)** Meprobamate;
[(ee)**] (ff)** Methohexital;
[(ff)**] (gg)** Methylphenobarbital;
[(gg)**] (hh)** Midazolam;
[(hh)**] (ii)** Nimetazepam;
[(ii)**] (jj)** Nitrazepam;
[(jj)**] (kk)** Nordiazepam;
[(kk)**] (ll)** Oxazepam;
[(ll)**] (mm)** Oxazolam;
[(mm)**] (nn)** Paraldehyde;
[(nn)**] (oo)** Petrichloral;
[(oo)**] (pp)** Phenobarbital;
[(pp)**] (qq)** Pinazepam;
[(qq)**] (rr)** Prazepam;
[(rr)**] (ss)** Quazepam;
[(ss)**] (tt)** Temazepam;
[(tt)**] (uu)** Tetrazepam;
[(uu)**] (vv)** Triazolam;
(yy) Zaleplon;
[(vv)**] (xx)** Zolpidem;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Cathine ((+)-norpseudoephedrine);
(b) Diethylpropion;
(c) Fencamfamin;
(d) Fenproporex;
(e) Mazindol;
(f) Mefenorex;
(g) **Modafinil;**
(h) Pemoline, including organometallic complexes and chelates thereof;
[(h)**] (i)** Phentermine;
[(i)**] (j)** Pipradrol;
(k) Sibutramine;
[(j)**] (l)** SPA ((-)-1-dimethyamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

(a) butorphanol;
(b) pentazocine;

(6) Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers and salts of isomers: ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the

compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) **[**Any material, compound, mixture or preparation containing any of the following narcotic drug and its salts: buprenorphine;

(2)**]** Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

[(3)**] (2)** Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone.

11. The department of health and senior services shall revise and republish the schedules annually.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony**[**, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product**]**, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance**, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product**;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile

court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031, RSMo, involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031, RSMo, before making a report of such a violation. Any report of a violation of section 167.031, RSMo, made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

217.105. CORRECTIONS OFFICER CERTIFICATION COMMISSION ESTABLISHED — DEFINITIONS — MEMBERS, QUALIFICATIONS, REMOVAL, VACANCIES, COMPENSATION — DUTIES — CLASSIFICATIONS MAY BE ESTABLISHED — RECORDS. — 1. As used in this section, the following terms mean:

(1) "COCC", corrections officer certification commission;

(2) "Corrections officer", a corrections officer of the state or any political subdivision of the state;

(3) "Director", the director of the Missouri department of corrections or his or her designated agent or representative.

2. There is hereby established within the department of corrections a "Corrections Officer Certification Commission" which shall be composed of nine members nominated by the director and appointed by the governor with the advice and consent of the senate:

(1) Three members shall be department of corrections officers below the rank of lieutenant; of which, at least two will be members of a statewide association of corrections officers with more than one thousand members;

(2) Three members shall be corrections officers or supervisors above the rank of sergeant; two of which must be the rank of lieutenant or captain. Of these three, at least one will be a member of a statewide association of corrections officers with more than one thousand members;

(3) Two members shall be county sheriffs, at least one of whom shall be from a third class county; and

(4) One member shall represent the general public.

3. Each member shall be at the time of appointment a citizen of the United States and a resident of this state for a period of at least one year.

4. The original members of the commission shall be appointed as follows:

(1) Three for terms of one year;

(2) Three for terms of two years; and

(3) Three for terms of three years.

Thereafter, all terms of membership on the commission shall be for three years or until a successor is appointed.

5. The director may remove any member of the commission for misconduct or neglect of office. Any member of the commission may be removed for cause by the director but such member shall first be presented with a written statement of the reasons thereof.

6. Any vacancy in the membership of the commission shall be filled by appointment for the unexpired term.

7. Annually the director shall appoint one of the members as chairperson. The commission shall meet to perform its duties at least once each year as determined by the director or a majority of the members. A majority of the members of the commission shall constitute a quorum.

8. No member of the commission shall receive any compensation for the performance of official duties but the members shall be reimbursed for their necessary expenses.

9. The commission may:

(1) Cause a job task analysis to be made of the jobs of corrections officers pursuant to this chapter; **[**jailers pursuant to chapter 221, RSMo; jailers in charter counties and private jail custody staff;**]**

(2) Make recommendations to the department of corrections, the legislature, or the governor concerning the qualifications, training, testing, and certification of corrections officers**[**, jailers and private jail custody staff**]**;

(3) Recommend qualifications and training standards for corrections officers pursuant to this chapter**[**, jailers pursuant to chapter 221, RSMo, and jailers in charter counties**]**.

10. The director may establish various classes of corrections officers certification.

11. The name, certification status, and employing corrections agency of any of the applicants or individuals certified pursuant to this chapter shall be open record. All other records retained by the director pertaining to any applicant or certified officer shall be confidential and shall not be disclosed to the public or any member of the public, except with the written consent of the person or entity whose records are involved, provided, however, that the director may disclose such information in the course of interstate exchange of information, during the course of litigation involving the director or to other state agencies. No closed record conveyed to the director pursuant to this chapter shall lose its status as a closed record solely because it is retained by the director. Nothing in this chapter shall be used to compel the director to disclose any record subject to attorney-client privilege or work-product privilege.

217.705. PROBATION, PAROLE, INSTITUTIONAL PAROLE, OFFICERS — APPOINTMENT — DUTIES. — 1. The chairman shall appoint probation and parole officers and institutional parole officers as deemed necessary to carry out the purposes of the board.

2. Probation and parole officers shall investigate all persons referred to them for investigation by the board or by any court as provided by sections 217.750 and 217.760. They shall furnish to each offender released under their supervision a written statement of the conditions of probation, parole or conditional release and shall instruct the offender regarding these conditions. They shall keep informed of the offender's conduct and condition and use all suitable methods to aid and encourage the offender to bring about improvement in the offender's conduct and conditions.

3. The probation and parole officer may recommend and, by order duly entered, the court may impose and may at any time modify any conditions of probation. The court shall cause a copy of any such order to be delivered to the probation and parole officer and the offender.

4. Probation and parole officers shall keep detailed records of their work and shall make such reports in writing and perform such other duties as may be incidental to those enumerated that the board may require. **In the event a parolee is transferred to another probation and parole officer, the written record of the former probation and parole officer shall be given to the new probation and parole officer.**

5. Institutional parole officers shall investigate all offenders referred to them for investigation by the board and shall provide the board such other reports the board may require. They shall furnish the offender prior to release on parole or conditional release a written

statement of the conditions of parole or conditional release and shall instruct the offender regarding these conditions.

6. The department shall furnish probation and parole officers and institutional parole officers, including supervisors, with credentials and a special badge which such officers and supervisors shall carry on their person at all times while on duty.

217.735. LIFETIME SUPERVISION REQUIRED FOR CERTAIN OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN — RULEMAKING AUTHORITY. — **1. Notwithstanding any other provision of law to the contrary, the board shall supervise an offender for the duration of his or her natural life when the offender has pleaded guilty to or been found guilty of an offense under sections 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after August 28, 2005, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section.**

2. For the purpose of this section, a prior sex offender is a person who has previously been found guilty of an offense contained in chapter 566, RSMo.

3. Subsection 1 of this section applies to offenders who have been granted probation, and to offenders who have been released on parole, conditional release, or upon serving their full sentence without early release. Supervision of an offender who was released after serving his or her full sentence will be considered as supervision on parole.

4. A mandatory condition of lifetime supervision of an offender under this section is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

5. In appropriate cases as determined by a risk assessment, the board may terminate the supervision of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

6. In accordance with section 217.040, the board may adopt rules relating to supervision and electronic monitoring of offenders under this section.

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 provide probation services for any class of misdemeanor except those class A misdemeanors the basis of which is contained in chapters 565 and 566, RSMo, or in section 568.050, RSMo, 455.085, RSMo, **589.425, RSMo,** or section 455.538, RSMo.

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

2. Any person convicted of driving while revoked is guilty of a class A misdemeanor. Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where **[**the judge in such case was an attorney and**]** the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving-while-revoked offenses occurred within ten years of the date of occurrence

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

302.541. ADDITIONAL REINSTATEMENT FEE, LICENSE TO OPERATE MOTOR VEHICLE, WHEN — PROOF OF FINANCIAL RESPONSIBILITY, NOT REQUIRED, WHEN. — 1. In addition to other fees required by law, any person who has had a license to operate a motor vehicle suspended or revoked following a determination, pursuant to section 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo, or any county or municipal ordinance, where **[**the judge in such case was an attorney and**]** the defendant was represented by or waived the right to an attorney, that such person was driving while intoxicated or with a blood alcohol content of eight-hundredths of one percent or more by weight or, where such person was at the time of the arrest less than twenty-one years of age and was driving with a blood alcohol content of two-hundredths of one percent or more by weight, shall pay an additional fee of twenty-five dollars prior to the reinstatement or reissuance of the license.

2. Any person less than twenty-one years of age whose driving privilege has been suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540 that such person was driving a motor vehicle with two-hundredths of one percent or more blood alcohol content is exempt from filing proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, as a prerequisite for reinstatement of driving privileges or obtaining a restricted driving privilege as provided by section 302.525.

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

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

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

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

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

4. An "emergency vehicle" is a vehicle of any of the following types:

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

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

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

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

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

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

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

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

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

(2) The driver of an emergency vehicle may:

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

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

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

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

(3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this subsection shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

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

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

306.112. OPERATING VESSEL WITH EXCESSIVE BLOOD ALCOHOL CONTENT — PENALTY. — 1. A person commits the crime of operating a vessel with excessive blood alcohol content if **[**he**]** **such person** operates a vessel on the Mississippi River, Missouri River or the

lakes of this state with ten-hundredths of one percent or more by weight of alcohol in **[**his**]** **such person's** blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis of the person's blood, breath, **urine,** or saliva.

3. Any person convicted of operating a vessel with excessive blood alcohol content is guilty of a class B misdemeanor upon conviction for the first violation, guilty of a class A misdemeanor upon conviction for the second violation, and guilty of a class D felony for conviction for the third and subsequent violations.

306.114. GRANT OF SUSPENDED IMPOSITION OF SENTENCE, REQUIREMENTS — VALIDITY OF CHEMICAL TESTS — RESTRICTIONS UPON WITHDRAWAL OF BLOOD, PROCEDURE, NO CIVIL LIABILITY. — 1. No person convicted of or pleading guilty to a violation of section 306.111 or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on probation for a minimum of two years and a record of the conviction or plea of guilty is entered into the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol.

2. Chemical tests of a person's blood, breath, **urine,** or saliva to be considered valid under the provisions of sections 306.111 to 306.119 shall be performed according to methods and devices approved by the department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the department of health and senior services for this purpose. In addition, any state, county, or municipal law enforcement officer who is certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a portable chemical test to any person suspected of operating any vessel in violation of section 306.111 or 306.112. A portable chemical test shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this section.

3. The department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to conduct tests required by sections 306.111 to 306.119, and shall establish standards as to the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination, suspension or revocation by the department of health and senior services.

4. A licensed physician, registered nurse, or trained medical technician, acting at the request and direction of a law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless the medical personnel, in the exercise of good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test or a **urine or** saliva specimen. In withdrawing blood for the purpose of determining the alcohol content in the blood, only a previously unused and sterile needle and sterile vessel shall be used and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to a venapuncture. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to **[**him**]** **such person**.

5. No person who administers any test pursuant to the provisions of sections 306.111 to 306.119 upon the request of a law enforcement officer, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or with which such person is employed or is in any way associated shall be civilly liable for damages to the person tested, except for negligence in administering of the test or for willful and wanton acts or omissions.

6. Any person who is dead, unconscious or who is otherwise in a condition rendering **[**him**]** **such person** incapable of refusing to take a test as provided in sections 306.111 to 306.119 shall be deemed not to have withdrawn the consent provided by section 306.116 and the test or tests may be administered.

306.116. OPERATION OF VESSEL DEEMED CONSENT TO CHEMICAL TESTS, WHEN — LIMITATION — PROCEDURE — INFORMATION AVAILABLE. — 1. Any person who operates a vessel upon the Mississippi River, Missouri River or the lakes of this state shall be deemed to have given consent to, subject to the provisions of sections 306.111 to 306.119, a chemical test or tests of **[**his**]** **such person's** breath, blood, **urine,** or saliva for the purpose of determining the alcohol or drug content of **[**his**]** **such person's** blood if arrested for any offense arising out of acts which the arresting law enforcement officer had reasonable grounds to believe were committed while the person was operating a vessel upon the Mississippi River, Missouri River or lakes of this state in violation of section 306.111 or 306.112. The test shall be administered at the direction of the arresting law enforcement officer whenever the person has been arrested for the offense.

2. The implied consent to submit to the chemical tests listed in subsection 1 of this section shall be limited to not more than two such tests arising from the same arrest, incident, or charge.

3. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of **[**his own**]** **such person's** choosing and at **[**his**]** **such person's** expense administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

4. Upon the request of the person who is tested, full information concerning the test shall be made available to **[**him**]** **such person**.

306.117. ADMISSIBILITY OF RESULTS OF CHEMICAL TESTS — PRESUMPTION OF INTOXICATION. — 1. Upon the trial of any person for violation of any of the provisions of section 306.111 or 306.112 the amount of alcohol or drugs in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, **urine,** or saliva is admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise admissible. Evidence of alcohol in a person's blood shall be given the following effect:

(1) If there was five-hundredths of one percent or less by weight of alcohol in **[**his**]** **such person's** blood, it shall be presumed that the person was not intoxicated at the time the specimen was obtained;

(2) If there was in excess of five-hundredths of one percent but less than ten-hundredths of one percent by weight of alcohol in **[**his**]** **such person's** blood, the fact shall not give rise to any presumption that the person was or was not intoxicated, but the fact may be considered with other competent evidence in determining whether the person was intoxicated;

(3) If there was ten-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood.

3. A chemical analysis of a person's breath, blood, **urine,** or saliva, in order to give rise to the presumption or to have the effect provided for in subsection 1 of this section, shall have been performed as provided in sections 306.111 to 306.119 and in accordance with methods and standards approved by the department of health and senior services.

4. The provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated or under

the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol.

306.119. NOTIFICATION OF RIGHT OF REFUSAL — REFUSAL, EFFECT, ADMISSIBILITY. — 1. If an arresting officer requests a person under arrest to submit to a chemical test, such request shall include the reasons of the officer for requesting the person to submit to a test and shall inform the person that he **or she** may refuse such request but that **[**his**] such person's** refusal may be used as evidence against him **or her**. If a person refuses a test as provided in this subsection, no test shall be given.

2. If a person refuses to submit to a chemical test of **[**his**] such person's** breath, blood, **urine,** or saliva and that person stands trial for the crimes provided in section 306.111 or 306.112, such refusal may be admissible into evidence at the trial.

306.140. ACCIDENT OR COLLISION, DUTIES OF OPERATOR — REPORT REQUIRED, WHEN. — 1. It shall be the duty of the operator of a watercraft involved in a collision, accident, or other casualty, so far as **[**he**] the operator** can do so without serious danger to **[**his own**] the operator's** watercraft, crew and passengers, to render to other persons affected by the collision, accident, or other casualty, assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his **or her** name, address, and identification of his **or her** watercraft in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

2. In the case of collision, accident, or other casualty involving a watercraft, the operator thereof, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of **[**two**] five** hundred dollars, shall file with the Missouri state water patrol a full description of the collision, accident, or other casualty, including such information as the patrol may, by regulation, require.

306.147. MUFFLER, DEFINED — NOISE LEVEL REGULATION, MUFFLER SYSTEM REQUIRED, CERTIFICATION OF MANUFACTURER — EXCEPTIONS — ON-SITE TEST TO MEASURE NOISE LEVELS, PENALTY — APPLICATION OF SECTION. — 1. As used in this section, the term "muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.

2. Effective January 1, 1996, a person shall not manufacture, sell or offer for sale or operate in this state any motorboat manufactured after that date that exceeds the noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. All motorboats manufactured prior to January 1, 1996, shall not exceed eighty-six decibels on an A-weighted scale when subjected to a sound level test as prescribed by SAE J34 when measured from a distance of fifty or more feet from the motorboat.

3. No person shall remove, alter or otherwise modify in any way a muffler or muffler system in a manner which will prevent it from being operated in accordance with this section. Nothing in this section shall preclude a person from removing, altering or modifying a muffler or muffler system so long as the muffler or muffler system continues to comply with subsection 2 of this section. This section shall not be construed so as to prohibit the use of any exhaust system or device, including but not limited to those not discharging water with exhaust gases, so long as the device or system is in compliance with subsection 2 of this section.

4. **No motorboat shall be equipped with any electrical or mechanical device or switch that when manipulated in any manner would allow the muffler or exhaust system to emit a noise level that exceeds the maximums in subsection 2 of this section.**

5. Effective January 1, 1996, a person shall not manufacture, nor shall any person sell or offer for sale any motorboat which is manufactured after January 1, 1996, which is equipped

with a muffler or muffler system which does not comply with this section. The subsection shall not apply to power vessels designed, manufactured and sold for the sole purpose of competing in racing events and for no other purpose. Any such exemption or exception shall be documented in every sale agreement and shall be formally acknowledged by signature on the part of both the buyer and the seller. Copies of such agreement shall be maintained by both parties. A copy of such agreement shall be kept on board whenever the motorboat is operated. Any motorboat sold under this exemption may only be operated on the waters of this state in accordance with subsection 6 of this section.

[5.**] 6.** As of January 1, 1996, every manufacturer which delivers a new motorboat for sale in this state shall certify, if the purchaser or dealer makes a request in writing, that the decibel level of the motorboat engine, muffler and exhaust system, as delivered to any licensed dealer in this state, does not exceed the noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. Such certificate of decibel level from the manufacturer shall be given by the dealer to the purchaser of the new motorboat if the motorboat is sold for use upon the waters of this state. The purchaser shall sign a statement acknowledging receipt of the certificate of decibel level which shall be supplied by the dealer. The dealer shall represent by affidavit whether or not the engine or muffler system of the new motorboat being sold has been altered or modified in any way.

[6.**] 7.** The provisions of this section shall not apply to motorboats registered and actually participating in a racing event or tune-up periods for such racing events or to a motorboat being operated by a boat or engine manufacturer for the purpose of testing or development. The operator of any motorboat operated upon the waters of this state for the purpose of a tune-up for a sanctioned race or for testing or development by a boat or engine manufacturer shall at all times have in such operator's possession and produce on demand by a law enforcement officer a test permit issued by the state water patrol. For the purpose of races or racing events, such race shall only be sanctioned when conducted in accordance with and approved by the United States Coast Guard or this state.

[7.**] 8.** Any officer authorized to enforce the provisions of this section who has probable cause to believe that a motorboat is not in compliance with the noise levels established in this section may direct the operator of such motorboat to submit the motorboat to an on-site test to measure noise levels, with the officer on board if such officer chooses, and the operator shall comply with such request. The owner of any motorboat which violates any provision of this section shall have sixty days from the date of the violation to bring the motorboat into compliance with the provisions of this section. Thereafter, it shall be the owner's responsibility to have the motorboat tested by the state water patrol. If the motorboat fails the state water patrol test, the owner shall immediately moor the motorboat and shall keep the motorboat moored until the state water patrol certifies that the motorboat is in compliance with the provisions of this section. Any person who fails to comply with a request or direction of an officer made pursuant to this subsection is guilty of a class C misdemeanor. Nothing in this subsection shall be construed to limit the officer's ability to enforce this section and to issue citations to the owner or operator of any motorboat during the sixty-day compliance period.

[8.**] 9.** Any officer who conducts motorboat sound level tests as provided in this section shall be qualified in motorboat noise testing by the department of public safety. Such qualifications shall include but may not be limited to the selection of the measurement site, and the calibration and use of noise testing equipment in accordance with the testing procedure prescribed by SAE J2005 and SAE J34.

[9.**] 10.** Unless otherwise indicated, any person who knowingly violates this section is guilty of an infraction for a first offense with a penalty not to exceed one hundred dollars, is guilty of an infraction for a second offense with a penalty not to exceed two hundred dollars, and is guilty of an infraction for a third or subsequent offense with a penalty not to exceed three hundred dollars.

[10.**] 11.** This section shall only apply to the waters of the Mississippi River, the waters of the Missouri River, and lakes with an aggregate shoreline in excess of one hundred sixty miles. This section shall not apply to motorboats not intended for use in this state.

367.031. RECEIPT FOR PLEDGED PROPERTY — CONTENTS — DEFINITIONS — THIRD-PARTY CHARGE FOR DATABASE — ACCESS TO DATABASE INFORMATION, LIMITATIONS — ERROR IN DATA, PROCEDURE — LOSS OF PAWN TICKET, EFFECT. — 1. At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

(1) The name and address of the pawnshop;

(2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;

(3) The date of the transaction;

(4) An identification and description of the pledged goods, including serial numbers if reasonably available;

(5) The amount of cash advanced or credit extended to the pledgor;

(6) The amount of the pawn service charge;

(7) The total amount which must be paid to redeem the pledged goods on the maturity date;

(8) The maturity date of the pawn transaction; and

(9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

2. The pawnbroker may be required, in accordance with local ordinances, to furnish appropriate law enforcement authorities with copies of information contained in subdivisions (1) to (4) of subsection 1 of this section and information contained in subdivision (6) of subsection 4 of section 367.040. The pawnbroker may satisfy such requirements by transmitting such information electronically to a database in accordance with this section, except that paper copies shall be made available for an on-site inspection upon request of any appropriate law enforcement authority.

3. As used in this section, the following terms mean:

(1) "Database", a computer database established and maintained by a third party engaged in the business of establishing and maintaining one or more databases;

(2) "Permitted user", persons authorized by law enforcement personnel to access the database;

(3) "Reportable data", the information required to be recorded by pawnbrokers for pawn transactions pursuant to subdivisions (1) to (4) of subsection 1 of this section and the information required to be recorded by pawnbrokers for purchase transactions pursuant to subdivision (6) of subsection 4 of section 367.040;

(4) "Reporting pawnbroker", a pawnbroker who chooses to transmit reportable data electronically to the database;

(5) "Search", the accessing of a single database record.

4. The database shall provide appropriate law enforcement officials with the information contained in subdivisions (1) to (4) of subsection 1 of this section and other useful information to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.

5. The database shall contain the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to this section and section 367.040 and shall be updated as requested. The database shall also contain such security features and protections as may be necessary to ensure that the reportable data maintained in the database can only be accessed by permitted users in accordance with the provisions of this section.

6. The third party's charge for the database shall be based on the number of permitted users. Law enforcement agencies shall be charged directly for access to the database, and the charge shall be reasonable in relation to the costs of the third party in establishing and maintaining the database. No reporting pawnbroker or customer of a reporting pawnbroker shall be charged any costs for the creation or utilization of the database.

7. (1) The information in the database shall only be accessible through the Internet to permitted users who have provided a secure identification or access code to the database but shall allow such permitted users to access database information from any jurisdiction transmitting such information to that database. Such permitted users shall provide the database with an identifier number of a criminal action for which the identity of the pawn or purchase transaction customer is needed and a representation that the information is connected to an inquiry or to the investigation of a complaint or alleged crime involving goods delivered by that customer in that transaction. The database shall record, for each search, the identity of the permitted user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other permitted users regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction.

(2) Any person who gains access to information in the database through fraud or false pretenses shall be guilty of a class C felony.

8. Any pawnbroker licensed **[**after August 28, 2002,**]** **under section 367.043** shall meet the following requirements:

(1) Provide all reportable data to appropriate users by transmitting it through the Internet to the database;

(2) Transmit all reportable data for one business day to the database prior to the end of the following business day;

(3) Make available for on-site inspection to any appropriate law enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

9. If a reporting pawnbroker or permitted user discovers any error in the reportable data, notice of such error shall be given to the database, which shall have a period of thirty days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests shall be allowed a period of at least thirty but no more than sixty days to repair such malfunction, and during such period such pawnbroker shall not be deemed to be in violation of this section if good faith efforts are made to correct the malfunction. During the periods specified in this subsection, the reporting pawnbroker and permitted user shall arrange an alternative method or methods by which the reportable data shall be made available.

10. No reporting pawnbroker shall be obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.

11. If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to section 486.205, RSMo, to perform notarial acts in this state.

407.1355. SOCIAL SECURITY NUMBERS, PROHIBITED ACTIONS INVOLVING. — 1. **Except as provided in this section** 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 **or to an individual's co-workers**;

(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 web site**;**

(4) Require an individual to use his or her Social Security number as an employee number for any type of employment-related activity.

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**] January 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.**] 4.** 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.**] 5.** 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.

479.230. ABSENCE OF JUDGE, PROCEDURE. — 1. If a municipal judge be absent, sick or disqualified from acting **pursuant to the general administrative authority of the presiding judge of the circuit court over the municipal divisions within the circuit contained in section 478.240, RSMo:**

(1) In municipal court divisions having more than one judge, the presiding judge of the municipal division, if any, or if there is not a designated presiding judge of the municipal division, any other municipal judge in said municipal division may request the presiding judge of the circuit court to designate a special municipal judge as provided in subsection 2 of this section until such absence or disqualification shall cease, subject to subdivision (4) of this subsection;

(2) The presiding judge of the municipal division may, by written directive, designate a written procedure delegating authority by which the municipal court administrator, if any, or the municipal court clerk, is authorized to notify and request the presiding judge of the circuit court to designate a special municipal judge as provided in subsection 2 of this section;

(3) In the absence of multiple judges in a municipal division, and in the absence of a written directive and policy authorizing the procedure, the mayor or chairman of the board

of trustees may request the presiding judge of the circuit court to designate a special municipal judge as provided in subsection 2 of this section or **in cases of circumstances making it impossible to reach the presiding judge of the circuit court in a timely manner,** the mayor or chairman **of the board of trustees** may designate some competent, eligible person to act as municipal judge until **[**such absence or disqualification shall cease; provided, however, that**] the presiding judge of the circuit court can designate a special municipal judge as provided for under subsection 2 of this section;**

(4) Notwithstanding the provisions of subdivisions (1) to (3) of this subsection, should a vacancy occur in the office of an elected municipal judge more than six months before a general municipal election, then a special election shall be held to fill such vacancy; and in case of vacancy in the office of an elected municipal judge within less than six months of a general municipal election, the office may be filled by a competent, eligible person **[**designated by the mayor or chairman of the board of trustees or as provided in subsection 2 of this section.**] under the procedures set forth in subdivisions (1), (2), and (3) of this subsection.**

2. The presiding judge of the circuit court may appoint any other municipal judge within the circuit to act as a special **interim** municipal judge for a municipal judge of the circuit who is absent, sick or disqualified from acting. The presiding judge shall act **[**only upon request of the mayor or chairman of the board of trustees for a special municipal judge**] upon the request of those with authority to make such request under subsection 1 of this section**.

3. The governing body of the municipality shall provide by ordinance for the compensation of any person designated to act as municipal judge under the provisions of this section.

542.276. WHO MAY APPLY FOR SEARCH WARRANT — CONTENTS OF APPLICATION, AFFIDAVIT — WHERE FILED, HEARING — CONTENTS OF WARRANT — WHO MAY EXECUTE, RETURN, WHEN AND HOW MADE — WARRANT DEEMED INVALID, WHEN. — 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

(1) Be in writing;

(2) State the time and date of the making of the application;

(3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(5) State facts sufficient to show probable cause for the issuance of a search warrant;

(6) Be verified by the oath or affirmation of the applicant;

(7) Be filed in the proper court;

(8) Be signed by the prosecuting attorney of the county where the search is to take place, or his or her designated assistant.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. Oral testimony shall not be considered. The application may be submitted by facsimile or other electronic means.

4. The judge shall determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

5. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

6. The search warrant shall:

(1) Be in writing and in the name of the state of Missouri;

(2) Be directed to any peace officer in the state;

(3) State the time and date the warrant is issued;

(4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized **[**and**]** **or** photographed or copied **and** within ten days after filing of the application, **any [**all photographs and copies or**]** photographs or copies of the items **[**shall**]** **may** be filed with the **[**circuit clerk**]** **issuing court**;

(7) Be signed by the judge, with his or her title of office indicated.

7. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded. The search warrant issued under this section may be issued by facsimile or other electronic means.

8. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application.

9. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when he or she is not the same person, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection 6 of section 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant for the warrant.

10. A search warrant shall be deemed invalid:

(1) If it was not issued by a judge; or

(2) If it was issued without a written application having been filed and verified; or

(3) If it was issued without probable cause; or

(4) If it was not issued in the proper county; or

(5) If it does not describe the person, place, or thing to be searched or the property, article, material, substance, or person to be seized with sufficient certainty; or

(6) If it is not signed by the judge who issued it; or

(7) If it was not executed within the time prescribed by subsection 8 of this section.

544.170. TWENTY HOURS DETENTION ON ARREST WITHOUT WARRANT — TWENTY-FOUR HOURS DETENTION FOR CERTAIN OFFENSES, RIGHTS OF CONFINEE — VIOLATIONS, PENALTY. — 1. **[**Except as provided in subsection 2 of this section,**]** All persons arrested and confined in any jail or other place of confinement by any peace officer, without warrant or other process, for any alleged breach of the peace or other criminal offense, or on suspicion thereof, shall be discharged from said custody within **[**twenty**]** **twenty-four** hours from the time of such arrest, unless they shall be charged with a criminal offense by the oath of some credible person, and be held by warrant to answer to such offense.

2. **[**Upon a determination by the commanding officer, or the delegate thereof, of the law enforcement agency making such an arrest, a person arrested for any of the following offenses without warrant or other process of law shall be released from custody within twenty-four hours of arrest, unless the person is charged and held pursuant to a warrant to answer for such offense:

(1) First degree murder pursuant to section 565.020, RSMo;
(2) Second degree murder pursuant to section 565.021, RSMo;
(3) First degree assault pursuant to section 565.050, RSMo;
(4) Forcible rape pursuant to section 566.030, RSMo;
(5) Forcible sodomy pursuant to section 566.060, RSMo;
(6) First degree robbery pursuant to section 569.020, RSMo; or
(7) Distribution of drugs pursuant to section 195.211, RSMo.

3.**]** In any confinement to which the provisions of this section apply, the confinee shall be permitted at any reasonable time to consult with counsel or other persons acting on the confinee's behalf.

[4.**] 3.** Any person who violates the provisions of this section, by refusing to release any person who is entitled to release pursuant to this section, or by refusing to permit a confinee to consult with counsel or other persons, or who transfers any such confinees to the custody or control of another, or to another place, or who falsely charges such person, with intent to avoid the provisions of this section, is guilty of a class A misdemeanor.

545.550. DEFENDANT IN CUSTODY, TO BE REMOVED, WHEN — WHICH COUNTY JAIL TO HOUSE DEFENDANT. — 1. If the defendant be in actual custody or confinement, the court or officer granting the order of removal shall**, subject to any arrangements made pursuant to section 2 of this section,** also make an order commanding the sheriff to remove the body of the defendant to the jail of the county into which the cause is to be removed, and then deliver him to the keeper of such jail, together with the warrant or process, by virtue of which he is imprisoned or held.

2. The sheriff of the county granting the change of venue and the sheriff of the county into which the cause is removed, may agree as to which county's jail will house the defendant. If the sheriffs do not agree where the defendant will be confined, the defendant will be confined in the county into which the cause is removed. In the event that the county granting the change of venue continues to house the defendant, the sheriff of that county shall be responsible for the timely transportation of the defendant for all court appearances that require the presence of the defendant.

556.036. TIME LIMITATIONS. — 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

(1) For any felony, three years;
(2) For any misdemeanor, one year;
(3) For any infraction, six months.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years**[.];**

(4) Any violation of sections 569.040 to 569.055, RSMo, within five years.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced either when an indictment is found or an information filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.

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, any sentence authorized for a class A felony;

(3) For a class C felony, any sentence authorized for a class B felony;

(4) For a class D felony, 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 — RESTITUTION FUND. — 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 an 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 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 offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

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

(3) If the 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 offender must serve shall be eighty percent of his or her sentence or until the 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 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 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 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 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 recommendations on or before July 1, 2004. The commission shall study the implementation and use of the recommendations until July 1, 2005, and return a report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, 2005, report, the commission shall revise the recommended sentences every two years.

(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.

(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.

(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 or a statutorily created fund 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, 2003.

10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565, RSMo. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565, RSMo.

11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.

12. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

559.016. TERMS OF PROBATION — EXTENSION. — 1. Unless terminated as provided in section 559.036, the terms during which each probation shall remain conditional and be subject to revocation are:

(1) A term of years not less than one year and not to exceed five years for a felony;

(2) A term not less than six months and not to exceed two years for a misdemeanor;

(3) A term not less than six months and not to exceed one year for an infraction.

2. The court shall designate a specific term of probation at the time of sentencing or at the time of suspension of imposition of sentence.

3. The court may extend a period of probation, however, no more than one extension of any probation may be ordered **except that the court may extend the total time on probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of his or her probation or is found by the court to have violated the conditions of his or her probation**. Total time on any probation term, including any extension, shall not exceed the maximum term as established in subsection 1 of this section **plus one**

additional year if the defendant admits or the court finds that the defendant has violated the conditions of his or her probation.

559.036. DURATION OF PROBATION — REVOCATION. — 1. A term of probation commences on the day it is imposed. Multiple terms of Missouri probation, whether imposed at the same time or at different times, shall run concurrently. Terms of probation shall also run concurrently with any federal or other state jail, prison, probation or parole term for another offense to which the defendant is or becomes subject during the period, unless otherwise specified by the Missouri court.

2. The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 559.016 if warranted by the conduct of the defendant and the ends of justice. The court may extend the term of the probation, but no more than one extension of any probation may be ordered **except that the court may extend the term of probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of probation or is found by the court to have violated the conditions of his or her probation**. Total time on any probation term, including any extension shall not exceed the maximum term established in section 559.016. Procedures for termination, discharge and extension may be established by rule of court.

3. If the defendant violates a condition of probation at any time prior to the expiration or termination of the probation term, the court may continue him on the existing conditions, with or without modifying or enlarging the conditions or extending the term, or, if such continuation, modification, enlargement or extension is not appropriate, may revoke probation and order that any sentence previously imposed be executed. If imposition of sentence was suspended, the court may revoke probation and impose any sentence available under section 557.011, RSMo. The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all or part of the time the defendant was on probation. The court may, upon revocation of probation, place an offender on a second term of probation. Such probation shall be for a term of probation as provided by section 559.016, notwithstanding any amount of time served by the offender on the first term of probation.

4. Probation shall not be revoked without giving the probationer notice and an opportunity to be heard on the issues of whether he violated a condition of probation and, if he did, whether revocation is warranted under all the circumstances.

5. **The prosecuting or circuit attorney may file a motion to revoke probation or** at any time during the term of probation, the court may issue a notice to the probationer to appear to answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the probationer. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court. **Upon the filing of the prosecutor or circuit attorney's motion or on the court's own motion, the court may immediately enter an order suspending the period of probation and may order a warrant for the defendant's arrest. The probation shall remain suspended until the court rules on the prosecutor or circuit attorney's motion, or until the court otherwise orders the probation reinstated.**

6. The power of the court to revoke probation shall extend for the duration of the term of probation designated by the court and for any further period which is reasonably necessary for the adjudication of matters arising before its expiration, provided that some affirmative manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the period and that every reasonable effort is made to notify the probationer and to conduct the hearing prior to the expiration of the period.

559.105. RESTITUTION MAY BE ORDERED FOR TAMPERING AND STEALING OFFENSES — LIMITATION ON RELEASE FROM PROBATION. — 1. Any person who has been found guilty of or has pled guilty to a violation of subdivision (2) of subsection 1 of section

569.080, RSMo, or paragraph (a) of subdivision (3) of subsection 3 of section 570.030, RSMo, may be ordered by the court to make restitution to the victim for the victim's losses due to such offense. Restitution pursuant to this section shall include, but not be limited to, the following:

(1) A victim's reasonable expenses to participate in the prosecution of the crime;

(2) A victim's payment for any repairs or replacement of the motor vehicle, watercraft, or aircraft; and

(3) A victim's costs associated with towing or storage fees for the motor vehicle caused by the acts of the defendant.

2. No person ordered by the court to pay restitution pursuant to this section shall be released from probation until such restitution is complete. If full restitution is not made within the original term of probation, the court shall order the maximum term of probation allowed for such offense.

3. Any person eligible to be released on parole for a violation of subdivision (2) of subsection 1 of section 569.080, RSMo, or paragraph (a) of subdivision (3) of subsection 3 of section 570.030, RSMo, may be required, as a condition of parole, to make restitution pursuant to this section. The board of probation and parole shall not release any person from any term of parole for such offense until the person has completed such restitution, or until the maximum term of parole for such offense has been served.

559.106. LIFETIME SUPERVISION OF CERTAIN OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN. — 1. Notwithstanding any statutory provision to the contrary, when a court grants probation to an offender who has pleaded guilty to or has been found guilty of an offense in sections 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after August 28, 2005, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section, the court shall order that the offender be supervised by the board of probation and parole for the duration of his or her natural life.

2. For the purpose of this section, a prior sex offender is a person who has previously pleaded guilty to or has been found guilty of an offense contained in chapter 566, RSMo.

3. When probation for the duration of the offender's natural life has been ordered, a mandatory condition of such probation is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

4. In appropriate cases as determined by a risk assessment, the court may terminate the probation of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

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 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 offender shall have the power to grant probation to an offender anytime up to one hundred twenty days after such offender has been delivered to the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the offender and such offender's behavior during the period of incarceration. Except as provided in this section, the court may place the

offender on probation in a program created pursuant to section 217.777, RSMo, or may place the 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.

5. Except when the offender has been found to be a predatory sexual offender pursuant to section 558.018, RSMo, the court shall request that the offender be 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.

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 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, RSMo.

8. Notwithstanding any other provision of law, probation may not be granted pursuant to this section to 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**]** **A** felony; abuse of a child pursuant to section 568.060, RSMo, when classified as a class A felony; an 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.

559.607. MUNICIPAL ORDINANCE VIOLATIONS, PROBATION MAY BE CONTRACTED FOR BY MUNICIPAL COURTS, PROCEDURE — COST TO BE PAID BY OFFENDERS, EXCEPTIONS. — 1. Judges of the municipal division in any circuit, acting through a chief or presiding judge, **either** may contract with a private **or public** entity **or may employ any qualified person to serve as the city's probation officer** to provide probation and rehabilitation services for persons placed on probation for violation of any ordinance of the city, specifically including the offense of operating or being in physical control of a motor vehicle while under the influence of intoxicating liquor or narcotic drugs. The contracting city shall not be required to pay for any part of the cost of probation and rehabilitation services authorized under sections 559.600 to 559.615. Persons found guilty or pleading guilty to ordinance violations and placed on probation by municipal or city court judges shall contribute **a service fee to the court in the amount set forth in section 559.604** to **pay** the cost of their probation supervision **provided by a probation officer employed by the court or by a contract probation officer** as provided for in section 559.604.

2. When approved by municipal court judges in **[**a circuit**] the municipal division**, the application, judicial order of approval, and the contract shall be forwarded to and filed with the board of probation and parole. The court-approved private **or public** entity **or probation officer employed by the court** shall then function as the probation office for the city, pursuant to the terms of the contract **or conditions of employment** and the terms of probation ordered by the judge. Any city in this state which presently does not have probation services available for persons convicted of its ordinance violations, **or that contracts out those services with a private entity,** may, under the procedures authorized in sections 559.600 to 559.615, **continue to** contract with a private entity **or employ any qualified person and contract with the municipal division** to provide such probation supervision and rehabilitation services.

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

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

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

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

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer** by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer**; or

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

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer** by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer** in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer**.

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

3. Assault of a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer** in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony.

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

(1) Such person recklessly causes physical injury to a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer**;

(2) Such person purposely places a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer** in apprehension of immediate physical injury;

(3) Such person knowingly causes or attempts to cause physical contact with a law enforcement officer **[**or**],** emergency personnel**, or probation and parole officer** 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.

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

566.083. SEXUAL MISCONDUCT INVOLVING A CHILD, PENALTY. — 1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes **[**the person's**] his or her** genitals to a child less than fourteen years of age **[**in a manner that would cause a reasonable adult to believe that the conduct is likely to cause affront or alarm to a child less than fourteen years of age**] under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child**;

(2) Knowingly exposes **[**the person's**] his or her** genitals to a child less than fourteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) **Knowingly** coerces or induces a child less than fourteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. As used in this section, the term "sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual

activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

3. Violation of this section is a class D felony unless the actor has previously pleaded guilty to or been convicted of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been convicted of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.

566.086. SEXUAL CONTACT WITH A STUDENT WHILE ON PUBLIC SCHOOL PROPERTY. — 1. A person commits the crime of sexual contact with a student while on public school property if he or she is a teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104, RSMo, and he or she has sexual contact with a student of the public school while on any public school property.

2. For the purposes of this section, public school property shall mean property of any public school in this state serving kindergarten through grade twelve.

3. Sexual contact with a student while on public school property is a class D felony.

566.200. DEFINITIONS. — As used in sections 566.200 to **[**566.218**] 566.221**, the following terms shall mean:

(1) **"Basic rights information", information applicable to a noncitizen, including but not limited to, information about human rights, immigration, emergency assistance and resources, and the legal rights and resources for victims of domestic violence;**

(2) "Client", a person who is a resident of the United States and the state of Missouri and who contracts with an international marriage broker to meet recruits;

(3) "Commercial sex act", any sex act on account of which anything of value is given to or received by any person;

(4) "Criminal history record information", criminal history record information, including information provided in a criminal background check, obtained from the Missouri state highway patrol and the Federal Bureau of Investigation;

(5) "International marriage broker",

(a) A corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States or any other state, that charges fees to residents of Missouri for providing dating, matrimonial, or social referrals or matching services between United States citizens or residents and non-resident aliens by providing information or a forum that would permit individuals to contact each other. Such contact shall include, but is not limited to:

a. Providing the name, telephone number, postal address, electronic mail address, or voice message mailbox of an individual, or otherwise facilitating communication between individuals; or

b. Providing an opportunity for an in-person meeting.

(b) Such term shall not include:

a. A traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States;

b. An entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as it principal business, and charges comparable rates to all individuals it serves regardless of the gender or country of citizenship or residence of the individual; or

c. An organization that does not charge a fee to any party for the services provided.

[(2)**] (6)** "Involuntary servitude or forced labor", a condition of servitude induced by means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer substantial bodily harm or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

(7) "Marital history information", a declaration of the person's current marital status, the number of times the person has previously been married, and whether any previous marriages occurred as a result of service from an international marriage broker;

[(3)**] (8)** "Peonage", illegal and involuntary servitude in satisfaction of debt**;**

(9) "Recruit", a non-citizen, non-resident, recruited by an international marriage broker for the purpose of providing dating, matrimonial, or social referral services.

566.221. INTERNATIONAL MARRIAGE BROKERS, NOTICE TO RECRUITS — CRIMINAL HISTORY RECORD AND MARITAL HISTORY RECORD TO BE DISSEMINATED — CLIENT REQUIREMENTS — VIOLATIONS, PENALTY. — 1. An international marriage broker shall provide notice to each recruit that the criminal history record information and marital history information of clients and basic rights information are available from the organization. The notice of the availability of such information must be in a conspicuous location, in the recruit's native language, in lettering that is at least one-quarter of an inch in height, and presented in a manner that separates the different types of information available.

2. An international marriage broker shall disseminate to a recruit the criminal history record information and marital history information of a client and basic rights information no later than thirty days after the date the international marriage broker receives the criminal history record information and the marital history information on the client. Such information must be provided in the recruit's native language and the organization shall pay the costs incurred to translate the information.

3. A client of an international marriage broker shall:

(1) Obtain a copy of his or her own criminal history record information;

(2) Provide the criminal history record information to the international marriage broker; and

(3) Provide to the international marriage broker his or her own marital history information.

4. An international marriage broker shall require the client to affirm that the marital history information is complete and accurate and includes information regarding marriages, annulments, and dissolutions that occurred in another state or foreign country.

5. An international marriage broker shall not provide any further services to the client or the recruit until the organization has obtained the required criminal history record information and marital history information and provided the information to the recruit.

6. An international marriage broker shall be deemed to be doing business in Missouri if it contracts for matchmaking services with a Missouri resident or is considered to be doing business pursuant to other laws of the state.

7. A person who pleads guilty to or is found guilty of violating the provisions of this section shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

8. It shall be a class D felony to wilfully provide incomplete or false information pursuant to this section.

9. Failure to provide the information and notice required pursuant to this section shall be a class D felony.

10. No provision of this section shall preempt any other right or remedy available under law to any party utilizing the services of an international marriage broker or other international marriage organization.

566.223. FEDERAL TRAFFICKING VICTIMS PROTECTION ACT OF 2000 TO APPLY, WHEN. — Any individual who is alleging that a violation of sections 566.200 to **[**566.218**]** **566.221** has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

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

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

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

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

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

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

2. Endangering the welfare of a child in the first degree is a class C felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class B felony.

568.050. ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE. — 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He **or she** with criminal negligence 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) He **or she** knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he **or she** recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He **or she** knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo**; or**

(5) He or she operates a vehicle in violation of subsection 2 of section 565.024 or section 577.010 or 577.012, RSMo, while a child less than seventeen years old is present in the vehicle.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he **or she** is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

569.040. ARSON IN THE FIRST DEGREE. — 1. A person commits the crime of arson in the first degree when he **or she:**

(1) Knowingly damages a building or inhabitable structure, and when any person is then present or in near proximity thereto, by starting a fire or causing an explosion and thereby recklessly places such person in danger of death or serious physical injury**; or**

(2) By starting a fire or explosion, damages a building or inhabitable structure in an attempt to produce methamphetamine.

2. Arson in the first degree is a class B felony unless a person has suffered serious physical injury or has died as a result of the fire or explosion set by the defendant **or as a result of a fire or explosion started in an attempt by the defendant to produce methamphetamine,** in which case arson in the first degree is a class A felony.

569.080. TAMPERING IN THE FIRST DEGREE. — 1. A person commits the crime of tampering in the first degree if:

(1) He **or she** for the purpose of causing a substantial interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, damages or tampers with property or facilities of such a utility or institution, and thereby causes substantial interruption or impairment of service; or

(2) He **or she** knowingly receives, possesses, sells, alters, defaces, destroys or unlawfully operates an automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner thereof.

2. Tampering in the first degree is a class C felony.

3. Upon a finding by the court that the probative value outweighs the prejudicial effect, evidence of the following is admissible in any criminal prosecution of a person under subdivision (2) of subsection 1 of this section to prove the requisite knowledge or belief:

(1) That he or she received, possessed, sold, altered, defaced, destroyed, or operated an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle unlawfully on a separate occasion;

(2) That he or she acquired the automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle for a consideration which he or she knew was far below its reasonable value.

569.090. TAMPERING IN THE SECOND DEGREE. — 1. A person commits the crime of tampering in the second degree if he **or she**:

(1) Tampers with property of another for the purpose of causing substantial inconvenience to that person or to another; or

(2) Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle; or

(3) Tampers or makes connection with property of a utility; or

(4) Tampers with, or causes to be tampered with, any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:

(a) To prevent the proper measuring of electric, gas, steam or water service; or

(b) To permit the diversion of any electric, gas, steam or water service.

2. In any prosecution under subdivision (4) of subsection 1, proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam or water service, with one or more of the effects described in subdivision (4) of subsection 1, shall be sufficient to support an inference which the

trial court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

3. Tampering in the second degree is a class A misdemeanor unless**:**

(1) Committed as a second or subsequent violation of subdivision (4) of subsection 1, in which case it is a class D felony**;**

(2) The defendant has a prior conviction or has had a prior finding of guilt pursuant to paragraph (a) of subdivision (3) of subsection 3 of section 570.030, RSMo, section 570.080, RSMo, or subdivision (2) of subsection 1 of this section, in which case it is a class C 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;

(m) Ammonium nitrate; or

(n) Any document of historical significance which has fair market value of five hundred dollars or more.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class **[**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 D felony**, unless the subsequent plea or guilty verdict is pursuant to paragraph (a) of subdivision (3) of subsection 3 of section 570.030, in which case the person shall be guilty of a class B felony,** and shall be punished accordingly.

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

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

570.080. RECEIVING STOLEN PROPERTY. — 1. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he **or she** receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he **or she** was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he **or she** received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he **or she** acquired the stolen property for a consideration which he **or she** knew was far below its reasonable value**;**

(4) That he or she obtained control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce a person to believe the property was stolen.

3. Receiving stolen property is a class A misdemeanor unless the property involved has a value of five hundred dollars or more, or the person receiving the property is a dealer in goods of the type in question, in which cases receiving stolen property is a class C felony.

570.120. CRIME OF PASSING BAD CHECKS, PENALTY — ACTUAL NOTICE GIVEN, WHEN — ADMINISTRATIVE HANDLING COSTS, AMOUNT, DEPOSIT IN FUND — USE OF FUND — ADDITIONAL COSTS, AMOUNT — PAYROLL CHECKS, ACTION, WHEN — SERVICE CHARGE MAY BE COLLECTED — RETURN OF BAD CHECK TO DEPOSITOR BY FINANCIAL INSTITUTION MUST BE ON CONDITION THAT ISSUER IS IDENTIFIABLE. — 1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order **or any other form of presentment involving the transmission of account information** for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) The person makes, issues, or passes a check or other similar sight order **or any other form of presentment involving the transmission of account information** for the payment of money, knowing that there are insufficient funds in **or on deposit with** that account **for the payment of such check, sight order, or other form of presentment involving the transmission of account information in full and all other checks, sight orders, or other forms of presentment involving the transmission of account information upon such funds then outstanding,** or that there is no such account or no drawee and fails to pay the check or sight order **or other form of presentment involving the transmission of account information** within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing" means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is five hundred dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class **[**D**] C** felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be **[**five**] twenty-five** dollars for checks of less than **[**ten dollars, ten dollars for checks of ten dollars but less than**]** one hundred dollars, and **[**twenty-five**] fifty** dollars for checks of one hundred dollars **[**or more**] but less than two hundred fifty dollars**. For checks of **[**one**] two** hundred **fifty** dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed **[**fifty**] seventy-five** dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not

required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county. Notwithstanding any law to the contrary, in addition to the administrative handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost of **[**one dollar**]** **five dollars** per check for deposit to the Missouri office of prosecution services fund established in subsection 2 of section 56.765, RSMo. All moneys collected pursuant to this section which are payable to the Missouri office of prosecution services fund shall be transmitted at least monthly by the county treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit of the Missouri office of prosecution services fund under the procedure established pursuant to subsection 2 of section 56.765, RSMo.

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney **[**and**],** employees' salaries**, and for other lawful expenses incurred by the circuit or prosecuting attorney in operation of that office**.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. Notwithstanding any other provision of law to the contrary:

(1) In addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check, shall be turned over to the party to whom the bad check was issued;

(2) If a check that is dishonored or returned unpaid by a financial institution is not referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions of this section, the party to whom the check was issued, or his or her agent or assignee, or a holder, may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.

7. **[**In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8.**]** When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

570.145. FINANCIAL EXPLOITATION OF THE ELDERLY AND DISABLED, PENALTY — DEFINITIONS. — 1. A person commits the crime of financial exploitation of an elderly or disabled person if such person knowingly and by deception, 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 fifty dollars, a class D felony if the value of the property is 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**]** **but less than fifty thousand dollars, and a class A felony if the value of the property is fifty 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**] a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection**;

(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", **a threat of physical or emotional harm to an elderly or disabled person, or** 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. Nothing in this section shall be construed to limit the remedies available to the victim pursuant to any state law relating to domestic violence.

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.

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.

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.

570.223. IDENTITY THEFT — PENALTY — RESTITUTION — OTHER CIVIL REMEDIES AVAILABLE — EXEMPTED ACTIVITIES. — 1. A person commits the crime of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use.

2. The term "means of identification" as used in this section includes, but is not limited to, the following:

(1) Social Security numbers;

(2) Drivers license numbers;

(3) Checking account numbers;
(4) Savings account numbers;
(5) Credit card numbers;
(6) Debit card numbers;
(7) Personal identification (PIN) code;
(8) Electronic identification numbers;
(9) Digital signatures;
(10) Any other numbers or information that can be used to access a person's financial resources;
(11) Biometric data;
(12) Fingerprints;
(13) Passwords;
(14) Parent's legal surname prior to marriage;
(15) Passports; or
(16) Birth certificates.

3. A person found guilty of identity theft shall be punished as follows:

(1) Identity theft or attempted identity theft which does not result in the theft or appropriation of credit, money, goods, services, or other property is a class B misdemeanor;

(2) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property not exceeding five hundred dollars in value is a class A misdemeanor;

(3) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding five hundred dollars and not exceeding **[**ten**] five** thousand dollars in value is a class C felony;

(4) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding **[**ten**] five** thousand dollars and not exceeding **[**one hundred**] fifty** thousand dollars in value is a class B felony;

(5) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding **[**one hundred**] fifty** thousand dollars in value is a class A felony.

4. In addition to the provisions of subsection 3 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

(1) In clearing the credit history or credit rating of the victim; and

(2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

5. In addition to the criminal penalties in subsections 3 and 4 of this section, any person who commits an act made unlawful by subsection 1 of this section shall be liable to the person to whom the identifying information belonged for civil damages of up to five thousand dollars for each incident, or three times the amount of actual damages, whichever amount is greater. A person damaged as set forth in subsection 1 of this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of subsection 1 of this section. The court, in an action brought under this subsection, may award reasonable attorneys' fees to the plaintiff.

6. If the identifying information of a deceased person is used in a manner made unlawful by subsection 1 of this section, the deceased person's estate shall have the right to recover damages pursuant to subsection 5 of this section.

7. Civil actions under this section must be brought within five years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered.

8. Civil action pursuant to this section does not depend on whether a criminal prosecution has been or will be instituted for the acts that are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law.

9. This section and section 570.224 shall not apply to the following activities:

(1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;

(2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;

(3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;

(4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so;

(5) A person is otherwise authorized by law to engage in the conduct that is the subject of the prosecution.

10. Notwithstanding the provisions of subdivision (1) or (2) of subsection 3 of this section, every person who has previously pled guilty to or been found guilty of identity theft or attempted identity theft, and who subsequently pleads guilty to or is found guilty of identity theft or attempted identity theft of credit, money, goods, services, or other property not exceeding five hundred dollars in value is guilty of a class D felony and shall be punished accordingly.

11. The value of property or services is its highest value by any reasonable standard at the time the identity theft is committed. Any reasonable standard includes, but is not limited to, market value within the community, actual value, or replacement value.

12. If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, and services involved.

570.255. VIOLATIONS, HOW PUNISHED — FORFEITURE AND DESTRUCTION OF ITEMS — PENALTIES NOT EXCLUSIVE. — 1. Any person guilty of a violation of sections 570.225 to 570.255 is punishable as follows:

(1) For the first offense of a violation of sections 570.225 to 570.241 which is not a felony under subdivision (2) of this subsection, such person is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five thousand dollars, or by confinement in the county jail not exceeding six months, or by both such fine and confinement.

(2) For any offense of a violation of section 570.240 or 570.241 involving one hundred or more articles upon which motion pictures or audiovisual works are recorded, or any other violation of section 570.225 to 570.241 involving one **[**thousand**]** **hundred** or more articles, such person is guilty of a felony and, upon conviction, shall be punished by a fine not exceeding fifty thousand dollars, or by imprisonment by the department of corrections for not more than five years, or by both such fine and imprisonment.

(3) For the second and subsequent violations of sections 570.225 to 570.255, such person is guilty of a felony and, upon conviction, shall be punished by a fine not exceeding one hundred thousand dollars, or by imprisonment by the department of corrections for not less than two years nor more than five years, or by both such fine and imprisonment.

2. If a person is convicted of any violation of sections 570.225 to 570.255, the court in its judgment of conviction may order the forfeiture and destruction or other disposition of all unlawful recordings and all implements, devices and equipment used or intended to be used in the manufacture of the unlawful recordings. The court may enter an order preserving such recordings and all implements, devices and equipment as evidence for use in other cases or pending in the final determination of an appeal. The provisions of this subsection shall not be construed to allow an order to destroy any such implements, devices, or equipment used or intended to be used in such manufacture subject to any valid lien or rights under any security agreement or title retention contract when the holder thereof is an innocent party.

3. The penalties provided under sections 570.225 to 570.255 are not exclusive and are in addition to any other penalties provided by law.

570.300. THEFT OF CABLE TELEVISION SERVICE, PENALTY. — 1. A person commits the crime of theft of cable television service if he:

(1) Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service, by means of artifice, trick, deception or device; or

(2) Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or

(3) Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or

(4) Knowingly sells, uses, manufactures, rents or offers for sale, rental or use any device, plan or kit designed and intended to obtain cable television service in violation of this section**; or**

(5) Knowingly attempts to connect to, tamper with, or otherwise interfere with any cable television signal, cables, wires, devices, or equipment, which is used for the distribution of cable television and which results in the unauthorized use of a cable television system or the disruption of the delivery of the cable television service. Nothing in this section shall be construed to prohibit, restrict, or otherwise limit the purchase, sale, or use of any products, including without limitation hardware, software, or other items, intended to provide services and features to a customer who has lawfully obtained a connection from a cable company.

2. Theft of cable television service is a class C felony if the value of the service appropriated is five hundred dollars or more **or if the theft is a violation of subdivision (5) of subsection 1 of this section;** otherwise theft of cable television services is a class A misdemeanor.

3. Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict the defendant may be entitled to reasonable attorney fees.

4. The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.

5. If a cable television company either:

(1) Provides unsolicited cable television service; or

(2) Fails to change or disconnect cable television service within ten days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten days after such written notice is received until the service is changed or disconnected.

6. Nothing in this section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

7. As used in this section, the term "cable television service" includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

575.150. RESISTING OR INTERFERING WITH ARREST — PENALTY. — 1. A person commits the crime of resisting or interfering with arrest, detention, or stop if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.

2. This section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.

3. A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.

4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this section shall be construed to bar civil suits for unlawful arrest.

5. Resisting or interfering with an arrest for a felony is a class D felony. Resisting an arrest**, detention or stop** by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony; otherwise, resisting or interfering with an arrest, detention or stop **in violation of subdivision (1) or (2) of subsection 1 of this section** is a class A misdemeanor.

575.205. TAMPERING WITH ELECTRONIC MONITORING EQUIPMENT. — 1. A person commits the crime of tampering with electronic monitoring equipment if the person intentionally removes, alters, tampers with, damages, or destroys electronic monitoring equipment which a court or the board of probation and parole has required such person to wear.

2. This section does not apply to the owner of the equipment or an agent of the owner who is performing ordinary maintenance or repairs on the equipment.

3. The crime of tampering with electronic monitoring equipment is a class C felony.

575.206. VIOLATING A CONDITION OF LIFETIME SUPERVISION. — 1. A person commits the crime of violating a condition of lifetime supervision if the person knowingly violates a condition of probation, parole, or conditional release when such condition was imposed by an order of a court under section 559.106, RSMo, or an order of the board of probation and parole under section 217.735, RSMo.

2. The crime of violating a condition of lifetime supervision is a class C felony.

575.270. TAMPERING WITH A WITNESS — TAMPERING WITH A VICTIM. — 1. A person commits the crime of tampering with a witness if, with purpose to induce a witness or a prospective witness **[**in an official proceeding**]** to disobey a subpoena or other legal process, or to absent himself or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he:

(1) Threatens or causes harm to any person or property; or

(2) Uses force, threats or deception; or

(3) Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or

(4) Conveys any of the foregoing to another in furtherance of a conspiracy.

2. A person commits the crime of "victim tampering" if, with purpose to do so, he prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:

(1) Making any report of such victimization to any peace officer, or state, local or federal law enforcement officer or prosecuting agency or to any judge;

(2) Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof;

(3) Arresting or causing or seeking the arrest of any person in connection with such victimization.

3. Tampering with a witness in a prosecution, tampering with a witness with purpose to induce the witness to testify falsely, or victim tampering is a class C felony if the original charge is a felony. Otherwise, tampering with a witness or victim tampering is a class A misdemeanor. Persons convicted under this section shall not be eligible for parole.

576.050. MISUSE OF OFFICIAL INFORMATION. — 1. A public servant commits the crime of misuse of official information if, in contemplation of official action by himself **or herself** or by a governmental unit with which he **or she** is associated, or in reliance on information to which he **or she** has access in his **or her** official capacity and which has not been made public, he **or she** knowingly:

(1) Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by such information or official action; or

(2) Speculates or wagers on the basis of such information or official action; or

(3) Aids, advises or encourages another to do any of the foregoing with purpose of conferring a pecuniary benefit on any person.

2. A person commits this crime if he or she knowingly obtains or recklessly discloses information from the Missouri Uniform Law Enforcement System (MULES) or the National Crime Information Center System (NCIC) for private or personal use, or for a purpose other than in connection with their official duties and performance of their job.

[2.**]** **3.** Misuse of official information is a class A misdemeanor.

577.023. PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where **[**the judge in such case was an attorney and**]** the defendant was represented by or waived the right to an attorney in writing;

(2) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses, where such two or more offenses occurred within ten years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo; and

(3) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. No court shall suspend the imposition of sentence as to a prior or persistent offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he **or she** has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court.

5. The court shall find the defendant to be a prior offender or persistent offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender or persistent offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender or persistent offender.

6. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

7. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

8. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

9. The defendant may waive proof of the facts alleged.

10. Nothing in this section shall prevent the use of presentence investigations or commitments.

11. At the sentencing hearing both the state and the defendant shall be permitted to present additional information bearing on the issue of sentence.

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

13. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders or persistent offenders.

14. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon.

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — NOTICE, REPORT OF PEACE OFFICER, CONTENTS — REVOCATION OF LICENSE, HEARING — EVIDENCE, ADMISSIBILITY — REINSTATEMENT OF LICENSES — SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM — ASSIGNMENT RECOMMENDATIONS, JUDICIAL REVIEW — FEES. — 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to **[**section**] sections** 565.024**, [**or**]** 565.060**[,] or 565.082,** RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be

used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a sworn report to the director of revenue, which shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010, RSMo, and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the

department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

577.500. SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES, PERSONS UNDER TWENTY-ONE YEARS OF AGE — VIOLATION OF CERTAIN LAWS — SURRENDER OF LICENSES — COURT TO FORWARD TO DIRECTOR OF REVENUE — PERIOD OF SUSPENSION. — 1. A court of competent jurisdiction shall, upon a plea of guilty, conviction or finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was committed by a juvenile, enter an order suspending or revoking the driving privileges of any person determined to have committed one of the following offenses and who, at the time said offense was committed, was under twenty-one years of age:

(1) Any alcohol related traffic offense in violation of state law or a county or, beginning July 1, 1992, municipal ordinance, where **[**the judge in such case was an attorney and**]** the defendant was represented by or waived the right to an attorney in writing;

(2) Any offense in violation of state law or, beginning July 1, 1992, a county or municipal ordinance, where **[**the judge in such case was an attorney and**]** the defendant was represented by or waived the right to an attorney in writing, involving the possession or use of alcohol, committed while operating a motor vehicle;

(3) Any offense involving the possession or use of a controlled substance as defined in chapter 195, RSMo, in violation of the state law or, beginning July 1, 1992, a county or municipal ordinance, where **[**the judge in such case was an attorney and**]** the defendant was represented by or waived the right to an attorney in writing;

(4) Any offense involving the alteration, modification or misrepresentation of a license to operate a motor vehicle in violation of section 311.328, RSMo;

(5) Any offense in violation of state law or, beginning July 1, 1992, a county or municipal ordinance, where **[**the judge in such case was an attorney and**]** the defendant was represented by or waived the right to an attorney in writing, involving the possession or use of alcohol for a second time; except that a determination of guilt or its equivalent shall have been made for the first offense and both offenses shall have been committed by the person when the person was under eighteen years of age.

2. The court shall require the surrender to it of any license to operate a motor vehicle then held by any person against whom a court has entered an order suspending or revoking driving privileges under subsection 1 of this section.

3. The court, if other than a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses acquired under subsection 2 of this section.

4. (1) The court, if a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses acquired under subsection 2 of this section for any person sixteen years of age or older, the provision of chapter 211, RSMo, to the contrary notwithstanding.

(2) The court, if a juvenile court, shall hold the order of suspension or revocation of driving privileges for any person less than sixteen years of age until thirty days before the person's sixteenth birthday, at which time the juvenile court shall forward to the director of revenue the order of suspension or revocation of driving privileges, the provision of chapter 211, RSMo, to the contrary notwithstanding.

5. The period of suspension for a first offense under this section shall be ninety days. Any second or subsequent offense under this section shall result in revocation of the offender's driving privileges for one year.

577.625. DISTRIBUTION OF PRESCRIPTION MEDICATION ON PUBLIC OR PRIVATE SCHOOL PROPERTY — EXCEPTIONS — VIOLATIONS, PENALTY. — 1. No person less than

eighteen years of age shall distribute upon the real property comprising a public or private elementary or secondary school or school bus a prescription medication to any individual who does not have a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010, RSMo.

2. The provisions of this section shall not apply to any person less than eighteen years of age authorized to distribute a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338, RSMo. This section shall not limit the use of any prescription medication by emergency personnel, as defined in section 565.081, RSMo, during an emergency situation.

3. Any person less than eighteen years of age who violates this section is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for any second or subsequent offense.

577.628. POSSESSION OF PRESCRIPTION MEDICATIONS ON PUBLIC OR PRIVATE SCHOOL PROPERTY — EXCEPTIONS — VIOLATION, PENALTY. — 1. No person less than eighteen years of age shall possess upon the real property comprising a public or private elementary or secondary school or school bus prescription medication without a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010, RSMo.

2. The provisions of this section shall not apply to any person less than eighteen years of age authorized to possess a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338, RSMo. This section shall not limit the use of any prescription medication by emergency personnel, as defined in section 565.081, RSMo, during an emergency situation.

3. Any person less than eighteen years of age who violates the provisions of this section is guilty of a class C misdemeanor for a first offense and a class B misdemeanor for any second or subsequent offense.

578.500. OPERATING AN AUDIOVISUAL RECORDING DEVICE IN A MOTION PICTURE THEATER — DEFINITIONS — VIOLATIONS, PENALTY. — 1. Any person, while a motion picture is being exhibited, who knowingly operates an audiovisual recording function of a device in a motion picture theater without the consent of the owner or lessee of the motion picture theater shall be guilty of criminal use of real property.

2. As used in this section, the term "audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.

3. As used in this section, the term "motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense, but excluding the lobby, entrance, or other areas of the building where a motion picture cannot be viewed.

4. The provisions of this section shall not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent, of the state or federal government, from operating any audiovisual recording device in any facility where a motion picture is being exhibited, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities. The owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of such owner or lessee, who alerts law enforcement authorities of an alleged violation of this section shall not be liable in any civil action arising out of measures taken by such owner, lessee, agent, or employee in the course of subsequently detaining a person that the owner, lessee, agent, or employee in good faith believed to have violated this section while awaiting the arrival of law enforcement authorities, unless the plaintiff can

show by clear and convincing evidence that such measures were unreasonable or the period of detention was unreasonably long.

5. Any person who has pled guilty to or been found guilty of violating the provisions of this section shall be guilty of a class A misdemeanor, unless the person has previously pled guilty or been found guilty of violating the provisions of this section, in which case it is a class D felony.

590.040. MINIMUM HOURS OF BASIC TRAINING REQUIRED. — 1. The POST commission shall set the minimum number of hours of basic training for licensure as a peace officer no lower than four hundred seventy and no higher than six hundred, with the following exceptions:

(1) Up to one thousand hours may be mandated for any class of license required for commission by a state law enforcement agency;

(2) As few as one hundred twenty hours may be mandated for any class of license restricted to commission as a reserve peace officer with police powers limited to the commissioning political subdivision;

(3) Persons validly licensed on August 28, 2001, may retain licensure without additional basic training;

(4) Persons licensed and commissioned within a county of the third classification before July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the commissioning political subdivision has adopted an order or ordinance to that effect; **[**and**]**

(5) **Persons commissioned and serving as a reserve peace officer within a county of the first classification on August 28, 2001, having previously completed a minimum of one hundred sixty hours of training, shall be granted a license necessary to function as a reserve peace officer; and**

(6) The POST commission shall provide for the recognition of basic training received at law enforcement training centers of other states, the military, the federal government and territories of the United States regardless of the number of hours included in such training and shall have authority to require supplemental training as a condition of eligibility for licensure.

2. The director shall have the authority to limit any exception provided in subsection 1 of this section to persons remaining in the same commission or transferring to a commission in a similar jurisdiction.

3. The basic training of every peace officer, except agents of the conservation commission, shall include at least thirty hours of training in the investigation and management of cases involving domestic and family violence. Such training shall include instruction, specific to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse, child fatalities and child neglect; interviewing children and alleged perpetrators; the nature, extent and causes of domestic and family violence; the safety of victims, other family and household members and investigating officers; legal rights and remedies available to victims, including rights to compensation and the enforcement of civil and criminal remedies; services available to victims and their children; the effects of cultural, racial and gender bias in law enforcement; and state statutes. Said curriculum shall be developed and presented in consultation with the department of health and senior services, the division of family services, public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence.

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**, including hearings under section 217.362, RSMo,** regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

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

(f) Any decision by a parole board, **by a** juvenile releasing authority or **by a** circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, **or by a circuit court presiding over releases under section 217.362, RSMo,** to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

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

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

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

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

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

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

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

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding 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**]** **utilizing the statewide automated crime victim notification system as established in section 650.310, RSMo,** shall constitute compliance with the victim notification requirement of this section. **If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail to the most current address provided by the victim.**

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

595.210. VICTIMS OF SEXUALLY VIOLENT OFFENSES, RIGHT TO TESTIFY AT PAROLE HEARINGS. — Any victim of a sexually violent offense, as defined in section 632.480, RSMo, shall have the right to testify at any parole hearing scheduled for the sexually violent predator, as defined in section 632.480, RSMo, who victimized such person, provided that the sexually violent predator is being considered for parole from imprisonment for a crime which arose out of such sexually violent predator's escape or attempted escape from commitment as a sexually violent predator under chapter 632, RSMo. Such crimes shall not be limited to the crimes of escape or attempted escape, but shall include any crime which was committed during the course of the sexually violent predator's escape or attempted escape from commitment as a sexually violent predator.

650.030. STATE FIREARMS TRAINING AND QUALIFICATION STANDARD FOR RETIRED LAW ENFORCEMENT OFFICERS CARRYING CONCEALED WEAPONS, RULES. — The director of public safety shall have authority to establish a state firearms training and qualification standard for retired law enforcement officers carrying concealed firearms pursuant to 18 U.S.C. 926C of the Law Enforcement Officers Safety Act of 2004, and shall promulgate rules for the implementation of this state standard as required by 18 U.S.C. Section 926C(d)(2)(B). Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

650.055. FELONY CONVICTIONS FOR CERTAIN OFFENSES TO HAVE BIOLOGICAL SAMPLES COLLECTED, WHEN — USE OF SAMPLE — HIGHWAY PATROL AND DEPARTMENT OF CORRECTIONS, DUTY — DNA RECORDS AND BIOLOGICAL MATERIALS TO BE CLOSED RECORD, DISCLOSURE, WHEN — EXPUNGEMENT OF RECORD, WHEN — LIABILITY OF GUILTY

PERSON. — 1. Every individual who pleads guilty or nolo contendere to or is convicted in a Missouri circuit court, of a felony or any offense under chapter 566, RSMo, or has been determined beyond a reasonable doubt to be a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) Upon entering the department of corrections reception and diagnostic centers; or

(2) Before release from a county jail or detention facility, state correctional facility or any other detention facility or institution, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo; or

(3) When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

(4) If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over those who have been convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA data bank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of section 650.050 and this section shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA data bank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; or

(4) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, RSMo, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.

9. Notwithstanding the sovereign immunity of the state, an individual who is determined to be "actually innocent" of a crime may be paid restitution in accordance with this subsection. The individual may receive an amount of fifty dollars per day for each day of postconviction incarceration for the crime for which the individual is determined to be actually innocent. The petition for the payment of said restitution shall be filed with the sentencing court within one year of the release from confinement after August 28, 2003. For the purposes of this subsection the term "actually innocent" shall mean:

(1) The individual was convicted of a felony for which a final order of release was entered by the court;

(2) All appeals of the order of release have been exhausted;

(3) The individual was not serving any term of a sentence for any other crime concurrently with the sentence for which they are determined to be actually innocent; and

(4) Testing ordered pursuant to section 547.035, RSMo, demonstrates a person's innocence of the crime for which the person is in custody.

An individual who receives restitution pursuant to this subsection shall be prohibited from seeking any civil redress from the state, its departments and agencies, or any employee thereof,

or any political subdivision or its employees. This subsection shall not be construed as a waiver of sovereign immunity for any purposes other than the restitution provided for herein. All restitution paid pursuant to this subsection shall be paid from moneys in the DNA profiling analysis fund. The department shall determine the aggregate amount of restitution owed during a fiscal year. If moneys remain in the fund on June thirtieth of each fiscal year, the remaining moneys shall be used to pay restitution to those individuals who have received an order awarding restitution under this subsection during the past fiscal year. If insufficient moneys remain in the fund on June thirtieth of each fiscal year to pay restitution to such persons, the department shall pay each individual who has received an order awarding restitution a pro rata share of the amount such person is owed. The remaining amounts owed to such individual shall be paid from the fund on June thirtieth of each subsequent fiscal year, provided moneys remain in the fund on June thirtieth, until such time as the restitution to the individual has been paid in full. **However, no individual awarded restitution under this subsection shall receive more than thirty-six thousand five hundred dollars during each fiscal year.** No interest on unpaid restitution shall be awarded to the individual. If there are no moneys remaining in the DNA profiling analysis fund, then no payments shall be made under this subsection. No individual who has been determined by the court to be actually innocent shall be responsible for the costs of care under section 217.831, RSMo.

10. If the results of the DNA testing confirm the person's guilt, then the person filing for DNA testing under section 547.035, RSMo, shall:

(1) Be liable for any reasonable costs incurred when conducting the DNA test, including but not limited to the cost of the test. Such costs shall be determined by the court and shall be included in the findings of fact and conclusions of law made by the court; and

(2) Be sanctioned under the provisions of section 217.262, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect the children of this state, the need to protect the personal information of the citizens of this state, and the need to protect the rights of victims of sexual offenses, the enactment of section 595.210 and the repeal and reenactment of sections 407.1355, 570.223, and 566.083 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 595.210 and the repeal and reenactment of sections 407.1355, 570.223, and 566.083 of this act shall be in full force and effect upon its passage and approval.

SECTION C. SEVERABILITY CLAUSE. — If any provision of sections 67.2540 to 67.2556 and section 567.080 or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved July 13, 2005

HB 365 [HCS HB 365]

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

Allows moneys from the county sheriff's revolving fund to be used to cover the costs associated with the processing of concealed carry endorsements

AN ACT to repeal section 50.535, RSMo, and to enact in lieu thereof one new section relating to the county sheriff's revolving fund, with an emergency clause.

SECTION
A. Enacting clause.
50.535. County sheriff's revolving fund established — fees deposited into, use of moneys — no prior approval for expenditures required — authorized payment of certain expenses.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 50.535, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 50.535, to read as follows:

50.535. COUNTY SHERIFF'S REVOLVING FUND ESTABLISHED — FEES DEPOSITED INTO, USE OF MONEYS — NO PRIOR APPROVAL FOR EXPENDITURES REQUIRED — AUTHORIZED PAYMENT OF CERTAIN EXPENSES. — 1. Notwithstanding the provisions of sections 50.525 to 50.745, the fee collected pursuant to subsections 10 and 11 of section 571.101, RSMo, shall be deposited by the county treasurer into a separate interest-bearing fund to be known as the "County Sheriff's Revolving Fund" to be expended at the direction of the county or city sheriff or his or her designee as provided in this section.

2. No prior approval of the expenditures from this fund shall be required by the governing body of the county or city not within a county, nor shall any prior audit or encumbrance of the fund be required before any expenditure is made by the sheriff from this fund. This fund shall only be used by law enforcement agencies for the purchase of equipment **[**and**],** to provide training**, and to make necessary expenditures to process applications for concealed carry endorsements or renewals, including but not limited to, the purchase of equipment, training, fingerprinting and background checks, employment of additional personnel, and any expenditure necessitated by an action under section 571.114 or 571.117, RSMo**. If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year. This fund may be audited by the state auditor's office or the appropriate auditing agency.

3. **Notwithstanding any provision of this section to the contrary, the sheriff of every county, regardless of classification, is authorized to pay, from the sheriff's revolving fund, all reasonable and necessary costs and expenses for activities or services occasioned by compliance with sections 571.101 to 571.121, RSMo. Such was the intent of the general assembly in original enactment of this section and sections 571.101 to 571.121, RSMo, and it is made express by this section in light of the decision in Brooks v. State of Missouri, (Mo. Sup. Ct. February 26, 2004). The application and renewal fees to be charged pursuant to section 571.101, RSMo, shall be based on the sheriff's good faith estimate, made during regular budgeting cycles, of the actual costs and expenses to be incurred by reason of compliance with sections 571.101 to 571.121, RSMo. If the maximum fee permitted by section 571.101, RSMo, is inadequate to cover the actual reasonable and necessary expenses in a given year, and there are not sufficient accumulated unexpended funds in the revolving fund, a sheriff may present specific and verified evidence of the unreimbursed expenses to the office of administration, which upon certification by the attorney general, shall reimburse such sheriff for those expenses from an appropriation made for that purpose.**

4. If pursuant to subsection 12 of section 571.101, RSMo, the sheriff of a county of the first classification designates one or more chiefs of police of any town, city, or municipality within such county to accept and process applications for certificates of qualification to obtain a concealed carry endorsement, then that sheriff shall reimburse such chiefs of police, out of the moneys deposited into this fund, for any reasonable expenses related to accepting and processing such applications.

SECTION B. EMERGENCY CLAUSE. — Because of the need to clarify ambiguities in the laws governing the administrative costs incurred by sheriffs' departments in processing concealed weapons permit applications, 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 12, 2005

HB 379 [HCS HB 379]

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 laws regarding the compensation for financial institution regulators

AN ACT to repeal sections 36.031, 361.170, and 370.107, RSMo, and to enact in lieu thereof three new sections relating to compensation for financial institution regulators.

SECTION

A. Enacting clause.
36.031. Applicability of merit system — director of personnel to notify affected agencies.
361.170. Expenses of examination, how paid — salary schedule for division employees to be maintained — division of finance fund, created, uses, transfers to general revenue fund, when.
370.107. Annual fee — how computed — division of credit unions fund, created, uses — salary schedule of division employees to be maintained.

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

SECTION A. ENACTING CLAUSE. — Sections 36.031, 361.170, and 370.107, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 36.031, 361.170, and 370.107, to read as follows:

36.031. APPLICABILITY OF MERIT SYSTEM — DIRECTOR OF PERSONNEL TO NOTIFY AFFECTED AGENCIES. — Any provision of law to the contrary notwithstanding, except for the elective offices, institutions of higher learning, the department of transportation, the department of conservation, those positions in the Missouri state highway patrol the compensation of which is established by subdivision (2) of subsection 2 of section 43.030, RSMo, and section 43.080, RSMo, **those positions in the division of finance and the division of credit unions compensated through a dedicated fund obtained from assessments and license fees under sections 361.170 and 370.107, RSMo,** and those positions for which the constitution specifically provides the method of selection, classification, or compensation, and the positions specified in subsection 1 of section 36.030, but including attorneys, those departments, agencies and positions of the executive branch of state government which have not been subject to these provisions of the state personnel law shall be subject to the provisions of sections 36.100, 36.110, 36.120 and 36.130, and the regulations adopted pursuant to sections 36.100, 36.110, 36.120 and 36.130 which relate to the preparation, adoption and maintenance of a position classification plan, the establishment and allocation of positions within the classification plan and the use of appropriate class titles in official records, vouchers, payrolls and communications. Any provision of law which confers upon any official or agency subject to the provisions of this section the authority to appoint, classify or establish compensation for employees shall mean the exercise of such authority subject to the provisions of this section. This section shall not extend coverage

of any section of this chapter, except those specifically named in this section, to any agency or employee. In accordance with sections 36.100, 36.110, 36.120 and 36.130, and after consultation with appointing authorities, the director of the division of personnel shall conduct such job studies and job reviews and establish such additional new and revised job classes as the director finds necessary for appropriate classification of the positions involved. Such classifications and the allocation of positions to classes shall be maintained on a current basis by the division of personnel. The director of the division of personnel shall, at the same time, notify all affected agencies of the appropriate assignment of each job classification to one of the salary ranges within the pay plan then applicable to merit system agencies. The affected agencies and employees in the classifications set pursuant to this section shall be subject to the pay plan and rates of compensation established and administered in accordance with the provisions of this section, and the regulations adopted pursuant to this section, on the same basis as for merit agency employees. In addition, any elected official, institution of higher learning, the department of transportation, the department of conservation, the general assembly, or any judge who is the chief administrative officer of the judicial branch of state government may request the division of personnel to study salaries within the requestor's office, department or branch of state government for classification purposes.

361.170. EXPENSES OF EXAMINATION, HOW PAID — SALARY SCHEDULE FOR DIVISION EMPLOYEES TO BE MAINTAINED — 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**]** **not to exceed** 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. **Fees and charges to other corporations subject to this chapter shall be reviewed at least annually by the division of finance to determine whether regulatory costs are offset by the fees and charges and the director of the division of finance shall revise fees and charges to fully recover such costs to the extent allowed by**

law or recommend to the general assembly necessary statutory changes to fully recover such costs.

3. **The director of the division of finance shall prepare and maintain an equitable salary schedule for examiners, professional staff, and support personnel that are employees of the division. Personnel employed by the division shall be compensated according to the following schedule, provided that such expense of administering the banking laws is assessed and paid in accordance with this section. The positions and classification plan for such personnel attributed to the examination of the state bank and trust companies shall allow for a comparison of such positions with similar bank examiner positions at federal bank regulatory agencies. State bank examiner positions shall not be compensated at more than ninety percent of parity for corresponding federal positions for similar geographic locations in the state as determined by the director of the division of finance.**

4. 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 **amount not to exceed** 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**] and any earnings attributed to such fund** 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 **amount not to exceed** 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 **to the extent supporting services are not directly allocated to the fund**.

370.107. ANNUAL FEE — HOW COMPUTED — DIVISION OF CREDIT UNIONS FUND, CREATED, USES — SALARY SCHEDULE OF DIVISION EMPLOYEES TO BE MAINTAINED. — 1. Every credit union organized pursuant to section 370.010 and operating pursuant to the laws of this state shall pay to the department of revenue a fee determined by the director based on the total assets of the credit union as of December thirty-first of the preceding fiscal year. One-half of the fee shall be paid on or before July fifteenth, and the balance shall be paid on or before January fifteenth of the next succeeding year. The maximum fee shall be calculated according to the following table:

Total Assets	Fee
Under $2,000,000	$0.125 per $1,000 of assets up to a maximum of $250
$2,000,000 or more but less than $5,000,000	$250, plus $1 per $1,000 of assets in excess of $2,000,000
$5,000,000 or more but less than $10,000,000	$3,250, plus $0.35 per $1,000 of assets in excess of $5,000,000

$10,000,000 or more but less than $25,000,000.	$5,000, plus $0.20 per $1,000 of assets in excess of $10,000,000
$25,000,000 or more.	$8,000, plus $0.15 per $1,000 of assets in excess of $25,000,000.

The shares of one credit union which are owned by another credit union shall be excluded from the assets of the first credit union for the purpose of computing the supervisory fee levied pursuant to this section. All fees assessed shall be accounted for as prepaid expenses on the books of the credit union.

2. The state treasurer shall credit such payments, including all fees and charges made pursuant to this chapter to a special fund to be known as the "Division of Credit Unions Fund", which is hereby created and which shall be devoted solely and exclusively to the payment of expenditures actually incurred by the division and attributable to the regulation of credit unions. Any amount remaining in such fund at the end of any fiscal year **and any earnings attributed to such fund** shall not be transferred and placed to the credit of the general revenue fund as provided in section 33.080, RSMo, but shall be used, upon appropriation by the general assembly, for 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 credit unions in such succeeding fiscal year. In the event two or more credit unions are merged or consolidated, such excess amounts shall be credited to the surviving or new credit union.

3. The expense of every regular and every special examination, together with the expenses of administering the laws pertaining to credit unions, including salaries, travel expenses, supplies and equipment, credit union commission expenses of administrative and clerical assistance, legal costs and any other reasonable expense in the performance of its duties, and an amount not to exceed fifteen percent of the above-estimated expenses to pay the actual costs of rent, utilities, other occupancy expenses and other supporting services furnished by any department, division or executive office of this state and an amount sufficient to cover the cost of fringe benefits shall be paid by the credit unions of this state by the payment of fees yielded by this section.

4. The director of the division of credit unions shall prepare and maintain an equitable salary schedule for examiners, professional staff, and support personnel that are employees of the division. Personnel employed by the division shall be compensated according to the following schedule, provided that such expense of administering the credit union laws is assessed and paid in accordance with this section. The positions and classification plan for such personnel attributed to the examination of the state credit unions shall allow for a comparison of such positions with similar examiner positions at federal credit union regulatory agencies. State credit union examiner positions shall not be compensated at more than ninety percent parity for corresponding federal positions for similar geographic locations in the state as determined by the director of the division of credit unions.

Approved July 14, 2005

HB 388 [HCS HB 388]

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

Makes certain documents that are submitted to the Department of Insurance non-public

AN ACT to amend chapter 374, RSMo, by adding thereto one new section relating to insurance compliance audits.

SECTION
A. Enacting clause.
374.071. Insurance records exempt from public disclosure — release permitted, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 374, RSMo, is amended by adding thereto one new section, to be known as section 374.071, to read as follows:

374.071. INSURANCE RECORDS EXEMPT FROM PUBLIC DISCLOSURE — RELEASE PERMITTED, WHEN. — 1. The following records of the department are not public records and are not available for public examination under section 374.070:

(1) Any document or other material in any consumer complaint file maintained under section 374.085, including medical records, repair estimates, adjuster notes, insurance policy provisions, recordings or transcripts of witness interviews, and any other records regarding coverage, settlement, payment, or denial of claim asserted under an insurance policy;

(2) Any document or other material submitted by an insurer or producer under section 374.190, or any other inquiry, information request, or data call initiated by the department.

2. Any record that is not public under subsections 1 and 2 of this section is confidential and is not subject to disclosure, including discovery or subpoena, unless the subpoena is issued by the prosecuting attorney, attorney general, administrative hearing officer, or under the authority of any court. The director may only produce the documents or other material to another state or federal governmental agency or officer under a lawful request, subpoena, or formal discovery procedure. The documents or material may, in the discretion of the director, be made public once admitted as evidence in any administrative, civil, or criminal enforcement proceeding.

3. The director may release contents of any record that is not public under this section as part of an examination report under section 374.205, if the release is in the public interest. Notwithstanding any provision of subsections 1 and 2 of this section to the contrary, in all cases, the director may release an incident report record consisting of the date and immediate facts and circumstances surrounding the initial consumer report or complaint.

4. No waiver of any applicable privilege or claim of confidentiality regarding any document shall occur as a result of disclosure to the director or by the director in sharing documents with other state and federal regulatory agencies, the National Association of Insurance Commissioners, and its affiliates and subsidiaries, or state or federal law enforcement authorities, and the recipient of such document is bound by the provisions of this section as to the confidentiality of such document.

Approved July 12, 2005

HB 393 [CCS SS SCS HCS HB 393]

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 laws affecting claims for damages and their payment and establishes venue in all tort actions

AN ACT to repeal sections 355.176, 408.040, 490.715, 508.010, 508.040, 508.070, 508.120, 510.263, 510.340, 516.105, 537.035, 537.067, 537.090, 538.205, 538.210, 538.220, 538.225, 538.230, and 538.300, RSMo, and to enact in lieu thereof twenty-three new sections relating to claims for damages and the payment thereof.

SECTION

A. Enacting clause.
355.176. Service.
408.040. Interest on judgments, how regulated — prejudgment interest allowed when, procedure.
490.715. Damages paid by defendant prior to trial may be introduced but is waiver of credit against judgment — evidence of medical treatment rendered permitted, when (collateral source rule modified).
508.010. Venue for nontort and tort suits — principal place of residence, defined.
508.011. Change of venue, state statute prevails if in conflict with supreme court rules.
510.263. Bifurcated trial may be requested by any party if punitive damages involved, procedure — post-trial motion for credit on punitive damages, procedure — credit not allowed, when — doctrine of remittitur and additur applied to awards.
510.265. Limitations on punitive damages in certain cases.
512.099. Bond or surety required during pendency of appeal, set how.
516.105. Actions against health care providers (medical malpractice).
537.035. Peer review committees — composition, purpose — immunity from civil liability, who, when — disclosure of records prohibited, exceptions — testimony before, discovery and admissibility, limitations.
537.067. Joint and several liability of defendants in tort actions, allocation of responsibility for judgment — defendants several liability for punitive damages.
537.090. Damages to be determined by jury — factors to be considered.
538.205. Definitions.
538.210. Limitation on noneconomic damages — jury not to be informed of limit — limit — punitive damages, requirements.
538.220. Damages, how paid — security required for future damage payments, when, duration — attorney's fees — death of judgment creditor, effect.
538.225. Affidavit by a health care provider certifying merit of case — legally qualified health care provider, defined — content filed, when — failure to file, effect — in camera review, when.
538.228. Immunity from civil liability for certain health care professionals and entities, when.
538.229. Certain statements, writings, and benevolent gestures inadmissible, when — definitions.
538.232. Venue for certain actions against health care providers, where.
538.300. Certain laws not applicable to sections 538.205 to 538.230.
1. Severability clause.
2. Applicability to causes of action, when.
3. Transfer of case based on addition or removal of a plaintiff or defendant prior to commencement of trial.
355.176. Service.
508.040. Suits against corporations, where commenced.
508.070. Suits against motor carrier, where brought.
508.120. Application to disqualify judge or for change of venue, when made.
510.340. Motion for new trial, when filed.
538.230. Apportionment of fault authorized — defendants jointly and severally liable, when — release of one defendant, effect.

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

SECTION A. ENACTING CLAUSE. — Sections 355.176, 408.040, 490.715, 508.010, 508.040, 508.070, 508.120, 510.263, 510.340, 516.105, 537.035, 537.067, 537.090, 538.205, 538.210, 538.220, 538.225, 538.230, and 538.300, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 355.176, 408.040, 490.715, 508.010, 508.011, 510.263, 510.265, 512.099, 516.105, 537.035, 537.067, 537.090, 538.205, 538.210, 538.220, 538.225, 538.228, 538.229, 538.232, 538.300, 1, 2, and 3, to read as follows:

355.176. SERVICE. — 1. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

2. If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office

shown in the most recent annual report filed under section 355.856. Service is perfected under this subsection on the earliest of:

(1) The date the corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the corporation; or

(3) Five days after its deposit in the United States mail, if mailed and correctly addressed with first-class postage affixed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

408.040. INTEREST ON JUDGMENTS, HOW REGULATED — PREJUDGMENT INTEREST ALLOWED WHEN, PROCEDURE. — 1. **In all nontort actions,** interest shall be allowed on all money due upon any judgment or order of any court from the **[**day of rendering the same**] date judgment is entered by the trial court** until satisfaction be made by payment, accord or sale of property; all such judgments and orders for money upon contracts bearing more than nine percent interest shall bear the same interest borne by such contracts, and all other judgments and orders for money shall bear nine percent per annum until satisfaction made as aforesaid.

2. **Notwithstanding the provisions of subsection 1 of this section, in tort actions, interest shall be allowed on all money due upon any judgment or order of any court from the date of judgment is entered by the trial court until full satisfaction. All such judgments and orders for money shall bear a per annum interest rate equal to the intended Federal Funds Rate, as established by the Federal Reserve Board, plus five percent, until full satisfaction is made. The judgment shall state the applicable interest rate, which shall not vary once entered.** In tort actions, if a claimant has made a demand for payment of a claim or an offer of settlement of a claim, to the party, parties or their representatives**, and to such party's liability insurer if known to the claimant,** and the amount of the judgment or order exceeds the demand for payment or offer of settlement, **then** prejudgment interest, **[**at the rate specified in subsection 1 of this section,**]** shall be **awarded,** calculated from a date **[**sixty**] ninety** days after the demand or offer was **[**made**] received, as shown by the certified mail return receipt**, or from the date the demand or offer was rejected without counter offer, whichever is earlier. **[**Any such demand or offer shall be made in writing and sent by certified mail and shall be left open for sixty days unless rejected earlier.**] In order to qualify as a demand or offer pursuant to this section, such demand must:**

(1) Be in writing and sent by certified mail return receipt requested; and

(2) Be accompanied by an affidavit of the claimant describing the nature of the claim, the nature of any injuries claimed and a general computation of any category of damages sought by the claimant with supporting documentation, if any is reasonably available; and

(3) For wrongful death, personal injury, and bodily injury claims, be accompanied by a list of the names and addresses of medical providers who have provided treatment to the claimant or decedent for such injuries, copies of all reasonably available medical bills, a list of employers if the claimant is seeking damages for loss of wages or earning, and written authorizations sufficient to allow the party, its representatives, and liability insurer if known to the claimant to obtain records from all employers and medical care providers; and

(4) Reference this section and be left open for ninety days.

Unless the parties agree in writing to a longer period of time, if the claimant fails to file a cause of action in circuit court prior to a date one hundred twenty days after the demand or offer was received, then the court shall not award prejudgment interest to the claimant. If the claimant is a minor or incompetent or deceased, the affidavit may be signed by any person who reasonably appears to be qualified to act as next friend or conservator or personal representative. If the claim is one for wrongful death, the affidavit may be signed by any person qualified pursuant to section 537.080, RSMo, to make claim for the death. Nothing contained herein shall limit the right of a claimant, in actions other than tort actions, to recover prejudgment interest as otherwise provided by law or contract.

3. In tort actions, a judgment for prejudgment interest awarded pursuant to this subsection should bear interest at a per annum interest rate equal to the intended Federal Funds Rate, as established by the Federal Reserve Board, plus three percent. The judgment shall state the applicable interest rate, which shall not vary once entered.

490.715. DAMAGES PAID BY DEFENDANT PRIOR TO TRIAL MAY BE INTRODUCED BUT IS WAIVER OF CREDIT AGAINST JUDGMENT — EVIDENCE OF MEDICAL TREATMENT RENDERED PERMITTED, WHEN (COLLATERAL SOURCE RULE MODIFIED). — 1. No evidence of collateral sources shall be admissible other than such evidence provided for in this section.

2. If prior to trial a defendant or his **or her** insurer or authorized representative, or any combination of them, pays all or any part of a plaintiff's special damages, the defendant may introduce evidence that some other person other than the plaintiff has paid those amounts. The evidence shall not identify any person having made such payments.

3. If a defendant introduces evidence described in subsection 2 of this section, such introduction shall constitute a waiver of any right to a credit against a judgment pursuant to section 490.710.

4. This section does not require the exclusion of evidence admissible for another proper purpose.

5. (1) Parties may introduce evidence of the value of the medical treatment rendered to a party that was reasonable, necessary, and a proximate result of the negligence of any party.

(2) In determining the value of the medical treatment rendered, there shall be a rebuttable presumption that the dollar amount necessary to satisfy the financial obligation to the health care provider represents the value of the medical treatment rendered. Upon motion of any party, the court may determine, outside the hearing of the jury, the value of the medical treatment rendered based upon additional evidence, including but not limited to:

(a) The medical bills incurred by a party;

(b) The amount actually paid for medical treatment rendered to a party;

(c) The amount or estimate of the amount of medical bills not paid which such party is obligated to pay to any entity in the event of a recovery.

Notwithstanding the foregoing, no evidence of collateral sources shall be made known to the jury in presenting the evidence of the value of the medical treatment rendered.

508.010. VENUE FOR NONTORT AND TORT SUITS — PRINCIPAL PLACE OF RESIDENCE, DEFINED. — **[**Suits instituted by summons shall, except as otherwise provided by law, be brought:**] 1. As used in this section, "principal place of residence" shall mean the county which is the main place where an individual resides in the state of Missouri. There shall be a rebuttable presumption that the county of voter registration at the time of injury is the principal place of residence. There shall be only one principal place of residence.**

2. In all actions in which there is no count alleging a tort, venue shall be determined as follows:

(1) When the defendant is a resident of the state, either in the county within which the defendant resides, or in the county within which the plaintiff resides, and the defendant may be found;

(2) When there are several defendants, and they reside in different counties, the suit may be brought in any such county;

(3) When there are several defendants, some residents and others nonresidents of the state, suit may be brought in any county in this state in which any defendant resides;

(4) When all the defendants are nonresidents of the state, suit may be brought in any county in this state**[**;

(5) Any action, local or transitory, in which any county shall be plaintiff, may be commenced and prosecuted to final judgment in the county in which the defendant or defendants reside, or in the county suing and where the defendants, or one of them, may be found;

(6) In all tort actions the suit may be brought in the county where the cause of action accrued regardless of the residence of the parties, and process therein shall be issued by the court of such county and may be served in any county within the state; provided, however, that in any action for defamation or for invasion of privacy the cause of action shall be deemed to have accrued in the county in which the defamation or invasion was first published**]**.

3. The term "tort" shall include claims based upon improper health care, under the provisions of chapter 538, RSMo.

4. Notwithstanding any other provision of law, in all actions in which there is any count alleging a tort and in which the plaintiff was first injured in the state of Missouri, venue shall be in the county where the plaintiff was first injured by the wrongful acts or negligent conduct alleged in the action.

5. Notwithstanding any other provision of law, in all actions in which there is any count alleging a tort and in which the plaintiff was first injured outside the state of Missouri, venue shall be determined as follows:

(1) If the defendant is a corporation, then venue shall be in any county where a defendant corporation's registered agent is located or, if the plaintiff's principal place of residence was in the state of Missouri on the date the plaintiff was first injured, then venue may be in the county of the plaintiff's principal place of residence on the date the plaintiff was first injured;

(2) If the defendant is an individual, then venue shall be in any county of the individual defendant's principal place of residence in the state of Missouri or, if the plaintiff's principal place of residence was in the state of Missouri on the date the plaintiff was first injured, then venue may be in the county containing the plaintiff's principal place of residence on the date the plaintiff was first injured.

6. Any action, in which any county shall be a plaintiff, may be commenced and prosecuted to final judgment in the county in which the defendant or defendants reside, or in the county suing and where the defendants, or one of them, may be found.

7. In all actions, process shall be issued by the court in which the action is filed and process may be served in any county within the state.

8. In any action for defamation or for invasion of privacy, the plaintiff shall be considered first injured in the county in which the defamation or invasion was first published.

9. In all actions, venue shall be determined as of the date the plaintiff was first injured.

10. All motions to dismiss or to transfer based upon a claim of improper venue shall be deemed granted if not denied within ninety days of filing of the motion unless such time period is waived in writing by all parties.

11. In a wrongful death action, the plaintiff shall be considered first injured where the decedent was first injured by the wrongful acts or negligent conduct alleged in the action. In any spouse's claim for loss of consortium, the plaintiff claiming consortium shall be considered first injured where the other spouse was first injured by the wrongful acts or negligent conduct alleged in the action.

12. The provisions of this section shall apply irrespective of whether the defendant is a for-profit or a not-for-profit entity.

13. In any civil action, if all parties agree in writing to a change of venue, the court shall transfer venue to the county within the state unanimously chosen by the parties. If any parties are added to the cause of action after the date of said transfer who do not consent to said transfer then the cause of action shall be transferred to such county in which venue is appropriate under this section, based upon the amended pleadings.

14. A plaintiff is considered first injured where the trauma or exposure occurred rather than where symptoms are first manifested.

508.011. CHANGE OF VENUE, STATE STATUTE PREVAILS IF IN CONFLICT WITH SUPREME COURT RULES. — To the extent that rule 51.03 of the Missouri rules of civil procedure contradicts any provision of this chapter, the provisions of this chapter shall prevail regarding any tort claim.

510.263. BIFURCATED TRIAL MAY BE REQUESTED BY ANY PARTY IF PUNITIVE DAMAGES INVOLVED, PROCEDURE — POST-TRIAL MOTION FOR CREDIT ON PUNITIVE DAMAGES, PROCEDURE — CREDIT NOT ALLOWED, WHEN — DOCTRINE OF REMITTITUR AND ADDITUR APPLIED TO AWARDS. — 1. All actions tried before a jury involving punitive damages**, including tort actions based upon improper health care,** shall be conducted in a bifurcated trial before the same jury if requested by any party.

2. In the first stage of a bifurcated trial, in which the issue of punitive damages is submissible, the jury shall determine liability for compensatory damages, the amount of compensatory damages, including nominal damages, and the liability of a defendant for punitive damages. Evidence of defendant's financial condition shall not be admissible in the first stage of such trial unless admissible for a proper purpose other than the amount of punitive damages.

3. If during the first stage of a bifurcated trial the jury determines that a defendant is liable for punitive damages, that jury shall determine, in a second stage of trial, the amount of punitive damages to be awarded against such defendant. Evidence of such defendant's net worth shall be admissible during the second stage of such trial.

4. Within the time for filing a motion for new trial, a defendant may file a post-trial motion requesting the amount awarded by the jury as punitive damages be credited by the court with amounts previously paid by the defendant for punitive damages arising out of the same conduct on which the imposition of punitive damages is based. At any hearing, the burden on all issues relating to such a credit shall be on the defendant and either party may introduce relevant evidence on such motion. Such a motion shall be determined by the trial court within the time and according to procedures applicable to motions for new trial. If the trial court sustains such a motion the trial court shall credit the jury award of punitive damages by the amount found by the trial court to have been previously paid by the defendant arising out of the same conduct and enter judgment accordingly. If the defendant fails to establish entitlement to a credit under the provisions of this section, or the trial court finds from the evidence that the defendant's conduct out of which the prior punitive damages award arose was not the same conduct on which the imposition of punitive damages is based in the pending action, or the trial court finds the defendant unreasonably continued the conduct after acquiring actual knowledge of the dangerous nature of such conduct, the trial court shall disallow such credit, or, if the trial court finds that the laws regarding punitive damages in the state in which the prior award of punitive damages was entered substantially and materially deviate from the law of the state of Missouri and that the nature of such deviation provides good cause for disallowance of the credit based on the public policy of Missouri, then the trial court may disallow all or any part of the credit provided by this section.

5. The credit allowable under this section shall not apply to causes of action for libel, slander, assault, battery, false imprisonment, criminal conversation, malicious prosecution or fraud.

6. The doctrines of remittitur and additur, based on the trial judge's assessment of the totality of the surrounding circumstances, shall apply to punitive damage awards.

7. As used in this section, "punitive damage award" means an award for punitive or exemplary damages or an award for aggravating circumstances.

8. Discovery as to a defendant's assets shall be allowed only after a finding by the trial court that it is more likely than not that the plaintiff will be able to present a submissible case to the trier of fact on the plaintiff's claim of punitive damages.

510.265. LIMITATIONS ON PUNITIVE DAMAGES IN CERTAIN CASES. — 1. No award of punitive damages against any defendant shall exceed the greater of:

(1) Five hundred thousand dollars; or

(2) Five times the net amount of the judgment awarded to the plaintiff against the defendant.

Such limitations shall not apply if the state of Missouri is the plaintiff requesting the award of punitive damages, or the defendant pleads guilty to or is convicted of a felony arising out of the acts or omissions pled by the plaintiff.

2. The provisions of this section shall not apply to civil actions brought under section 213.111, RSMo, that allege a violation of section 213.040, 213.045, 213.050, or 213.070, RSMo, to the extent that the alleged violation of section 213.070, RSMo, relates to or involves a violation of section 213.040, 213.045, or 213.050, RSMo, or subdivision (3) of section 213.070, RSMo, as it relates to housing.

512.099. BOND OR SURETY REQUIRED DURING PENDENCY OF APPEAL, SET HOW. — 1. In all cases in which there is a count alleging a tort, 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 respondent 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, the limitation granted under 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 under subsection 1 of this section shall:

(1) Provide to the court and respondent 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 respondent 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 in writing or in court on the record 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 judgments entered on or after August 28, 2005.

516.105. ACTIONS AGAINST HEALTH CARE PROVIDERS (MEDICAL MALPRACTICE). — All actions against physicians, hospitals, dentists, registered or licensed practical nurses, optometrists, podiatrists, pharmacists, chiropractors, professional physical therapists, and any other entity providing health care services and all employees of any of the foregoing acting in the course and scope of their employment, for damages for malpractice, negligence, error or mistake related to health care shall be brought within two years from the date of occurrence of the act of neglect complained of, except that:

(1) In cases in which the act of neglect complained of is introducing and negligently permitting any foreign object to remain within the body of a living person, the action shall be

brought within two years from the date of the discovery of such alleged negligence, or from the date on which the patient in the exercise of ordinary care should have discovered such alleged negligence, whichever date first occurs; and

(2) In cases in which the act of neglect complained of is the negligent failure to inform the patient of the results of medical tests, the action for failure to inform shall be brought within two years from the date of the discovery of such alleged negligent failure to inform, or from the date on which the patient in the exercise of ordinary care should have discovered such alleged negligent failure to inform, whichever date first occurs; except that, no such action shall be brought for any negligent failure to inform about the results of medical tests performed more than two years before August 28, 1999**. For purposes of this subdivision, the act of neglect based on the negligent failure to inform the patient of the results of medical tests shall not include the act of informing the patient of the results of negligently performed medical tests or the act of informing the patient of erroneous test results**; and

(3) In cases in which the person bringing the action is a minor less than eighteen years of age, such minor shall have until his or her twentieth birthday to bring such action.

In no event shall any action for damages for malpractice, error, or mistake be commenced after the expiration of ten years from the date of the act of neglect complained of or for **[**ten**] two** years from a minor's **[**twentieth**] eighteenth** birthday, whichever is later.

537.035. PEER REVIEW COMMITTEES — COMPOSITION, PURPOSE — IMMUNITY FROM CIVIL LIABILITY, WHO, WHEN — DISCLOSURE OF RECORDS PROHIBITED, EXCEPTIONS — TESTIMONY BEFORE, DISCOVERY AND ADMISSIBILITY, LIMITATIONS. — 1. As used in this section, unless the context clearly indicates otherwise, the following words and terms shall have the meanings indicated:

(1) "Health care professional", a physician or surgeon licensed under the provisions of chapter 334, RSMo, or a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist licensed under the provisions of chapter 330, RSMo, or an optometrist licensed under the provisions of chapter 336, RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, or a chiropractor licensed under the provisions of chapter 331, RSMo, or a psychologist licensed under the provisions of chapter 337, RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, or a social worker licensed under the provisions of chapter 337, RSMo, or a professional counselor licensed under the provisions of chapter 337, RSMo, or a mental health professional as defined in section 632.005, RSMo, while acting within their scope of practice;

(2) "Peer review committee", a committee of health care professionals with the responsibility to evaluate, maintain, or monitor the quality and utilization of health care services or to exercise any combination of such responsibilities.

2. A peer review committee may be constituted as follows:

(1) Comprised of, and appointed by, a state, county or local society of health care professionals;

(2) Comprised of, and appointed by, the partners, shareholders, or employed health care professionals of a partnership or professional corporation of health care professionals**, or employed health care professionals of a university or an entity affiliated with a university operating under chapter 172, 174, 352, or 355, RSMo**;

(3) Appointed by the board of trustees, chief executive officer, or the organized medical staff of a licensed hospital, or other health facility operating under constitutional or statutory authority, **including long-term care facilities licensed under chapter 198, RSMo,** or an administrative entity of the department of mental health recognized pursuant to the provisions of subdivision (3) of subsection 1 of section 630.407, RSMo;

(4) Any other organization formed pursuant to state or federal law authorized to exercise the responsibilities of a peer review committee and acting within the scope of such authorization;

(5) Appointed by the board of directors, chief executive officer or the medical director of the licensed health maintenance organization.

3. Each member of a peer review committee and each person, hospital governing board, health maintenance organization board of directors, and chief executive officer of a licensed hospital or other hospital operating under constitutional or statutory authority, chief executive officer or medical director of a licensed health maintenance organization who testifies before, or provides information to, acts upon the recommendation of, or otherwise participates in the operation of, such a committee shall be immune from civil liability for such acts so long as the acts are performed in good faith, without malice and are reasonably related to the scope of inquiry of the peer review committee.

4. Except as otherwise provided in this section, the **interviews, memoranda,** proceedings, findings, deliberations, reports, and minutes of peer review committees**, or the existence of the same,** concerning the health care provided any patient are privileged and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity or be admissible into evidence in any judicial or administrative action for failure to provide appropriate care. Except as otherwise provided in this section, no person who was in attendance at any peer review 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 a peer review committee nor is a member, employee, or agent of such committee, or other person appearing before it, to be prevented from testifying as to matters within his personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about testimony or other proceedings before any health care review committee or board or about opinions formed as a result of such committee hearings. **The disclosure of any interview, memoranda, proceedings, findings, deliberations, reports, or minutes to any person or entity, including but not limited to governmental agencies, professional accrediting agencies, or other health care providers, whether proper or improper, shall not waive or have any effect upon its confidentiality, nondiscoverability, or nonadmissibility.**

5. The provisions of subsection 4 of this section limiting discovery and admissibility of testimony as well as the proceedings, findings, records, and minutes of peer review committees do not apply in any judicial or administrative action brought by a peer review committee or the legal entity which formed or within which such committee operates to deny, restrict, or revoke the hospital staff privileges or license to practice of a physician or other health care providers; or when a member, employee, or agent of the peer review committee or the legal entity which formed such committee or within which such committee operates is sued for actions taken by such committee which operate to deny, restrict or revoke the hospital staff privileges or license to practice of a physician or other health care provider.

6. 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 peer review committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards.

537.067. JOINT AND SEVERAL LIABILITY OF DEFENDANTS IN TORT ACTIONS, ALLOCATION OF RESPONSIBILITY FOR JUDGMENT — DEFENDANTS SEVERAL LIABILITY FOR PUNITIVE DAMAGES. — 1. In all tort actions for damages, **[**in which fault is not assessed to the plaintiff, the defendants shall be jointly and severally liable for the amount of the judgment rendered against such defendants.

2. In all tort actions for damages in which fault is assessed to plaintiff the defendants shall be jointly and severally liable for the amount of the judgment rendered against such defendants except as follows:

(1) In all such actions in which the trier of fact assesses a percentage of fault to the plaintiff, any party, including the plaintiff, may within thirty days of the date the verdict is rendered move for reallocation of any uncollectible amounts;

(2) If such a motion is filed the court shall determine whether all or part of a party's equitable share of the obligation is uncollectible from that party, and shall reallocate any uncollectible amount among the other parties, including a claimant at fault, according to their respective percentages of fault;

(3) The party whose uncollectible amount is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant on the judgment;

(4) No amount shall be reallocated to any party whose assessed percentage of fault is less than the plaintiff's so as to increase that party's liability by more than a factor of two;

(5) If such a motion is filed, the parties may conduct discovery on the issue of collectibility prior to a hearing on such motion;

(6) Any order of reallocation pursuant to this section shall be entered within one hundred twenty days after the date of filing such a motion for reallocation. If no such order is entered within that time, such motion shall be deemed to be overruled;

(7) Proceedings on a motion for reallocation shall not operate to extend the time otherwise provided for post-trial motion or appeal on other issues.

Any appeal on an order or denial of reallocation shall be taken within the time provided under applicable rules of civil procedure and shall be consolidated with any other appeal on other issues in the case.

3. This section shall not be construed to expand or restrict the doctrine of joint and several liability except for reallocation as provided in subsection 2.**] if a defendant is found to bear fifty-one percent or more of fault, then such defendant shall be jointly and severally liable for the amount of the judgment rendered against the defendants. If a defendant is found to bear less than fifty-one percent of fault, then the defendant shall only be responsible for the percentage of the judgment for which the defendant is determined to be responsible by the trier of fact; except that, a party is responsible for the fault of another defendant or for payment of the proportionate share of another defendant if any of the following applies:**

(1) The other defendant was acting as an employee of the party;

(2) The party's liability for the fault of another person arises out of a duty created by the federal Employers' Liability Act, 45 U.S.C. Section 51.

2. The defendants shall only be severally liable for the percentage of punitive damages for which fault is attributed to such defendant by the trier of fact.

3. In all tort actions, no party may disclose to the trier of fact the impact of this section.

537.090. DAMAGES TO BE DETERMINED BY JURY — FACTORS TO BE CONSIDERED. — In every action brought under section 537.080, the trier of the facts may give to the party or parties entitled thereto such damages as the trier of the facts may deem fair and just for the death and loss thus occasioned, having regard to the pecuniary losses suffered by reason of the death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support of which those on whose behalf suit may be brought have been deprived by reason of such death and without limiting such damages to those which would be sustained prior to attaining the age of majority by the deceased or by the person suffering any such loss. In addition, the trier of the facts may award such damages as the deceased may have suffered between the time of injury and the time of death and for the recovery of which the deceased might have maintained an action had death not ensued. The

mitigating or aggravating circumstances attending the death may be considered by the trier of the facts, but damages for grief and bereavement by reason of the death shall not be recoverable. **If the deceased was not employed full time and was at least fifty percent responsible for the care of one or more minors or disabled persons, or persons over sixty-five years of age, there shall be a rebuttable presumption that the value of the care provided, regardless of the number of persons cared for, is equal to one hundred and ten percent of the state average weekly wage, as computed under section 287.250, RSMo. If the deceased is under the age of eighteen, there shall be a rebuttable presumption that the annual pecuniary losses suffered by reason of the death shall be calculated based on the annual income of the deceased's parents, provided that if the deceased has only one parent earning income, then the calculation shall be based on such income, but if the deceased had two parents earning income, then the calculation shall be based on the average of the two incomes.**

538.205. DEFINITIONS. — As used in sections 538.205 to 538.230, the following terms shall mean:

(1) "Economic damages", damages arising from pecuniary harm including, without limitation, medical damages, and those damages arising from lost wages and lost earning capacity;

(2) "Equitable share", the share of a person or entity in an obligation that is the same percentage of the total obligation as the person's or entity's allocated share of the total fault, as found by the trier of fact;

(3) "Future damages", damages that the trier of fact finds will accrue after the damages findings are made;

(4) "Health care provider", any physician, hospital, health maintenance organization, ambulatory surgical center, long-term care facility **including those licensed under chapter 198, RSMo**, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist, physician-in-training, and any other person or entity that provides health care services under the authority of a license or certificate;

(5) "Health care services", any services that a health care provider renders to a patient in the ordinary course of the health care provider's profession or, if the health care provider is an institution, in the ordinary course of furthering the purposes for which the institution is organized. Professional services shall include, but are not limited to, transfer to a patient of goods or services incidental or pursuant to the practice of the health care provider's profession or in furtherance of the purposes for which an institutional health care provider is organized;

(6) "Medical damages", damages arising from reasonable expenses for necessary drugs, therapy, and medical, surgical, nursing, x-ray, dental, custodial and other health and rehabilitative services;

(7) "Noneconomic damages", damages arising from nonpecuniary harm including, without limitation, pain, suffering, mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include punitive damages;

(8) "Past damages", damages that have accrued when the damages findings are made;

(9) "Physician employee", any person or entity who works for hospitals for a salary or under contract and who is covered by a policy of insurance or self-insurance by a hospital for acts performed at the direction or under control of the hospital;

(10) "Punitive damages", damages intended to punish or deter willful, wanton or malicious misconduct**, including exemplary damages and damages for aggravating circumstances**;

(11) "Self-insurance", a formal or informal plan of self-insurance or no insurance of any kind.

538.210. LIMITATION ON NONECONOMIC DAMAGES — JURY NOT TO BE INFORMED OF LIMIT — LIMIT — PUNITIVE DAMAGES, REQUIREMENTS. — 1. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the

failure to render health care services, no plaintiff shall recover more than three hundred fifty thousand dollars **[**per occurrence**]** for noneconomic damages **[**from any one defendant as defendant is defined in subsection 2 of this section**] irrespective of the number of defendants**.

2. **[**"Defendant" for purposes of sections 538.205 to 538.230 shall be defined as:

(1) A hospital as defined in chapter 197, RSMo, and its employees and physician employees who are insured under the hospital's professional liability insurance policy or the hospital's self-insurance maintained for professional liability purposes;

(2) A physician, including his nonphysician employees who are insured under the physician's professional liability insurance or under the physician's self-insurance maintained for professional liability purposes;

(3) Any other health care provider having the legal capacity to sue and be sued and who is not included in subdivisions (1) and (2) of this subsection, including employees of any health care providers who are insured under the health care provider's professional liability insurance policy or self-insurance maintained for professional liability purposes.**] (1) Such limitation shall also apply to any individual or entity, or their employees or agents that provide, refer, coordinate, consult upon, or arrange for the delivery of health care services to the plaintiff; and**

(2) Who is a defendant in a lawsuit brought against a health care provider under this chapter, or who is a defendant in any lawsuit that arises out of the rendering of or the failure to render health care services.

(3) No individual or entity whose liability is limited by the provisions of this chapter shall be liable to any plaintiff based on the actions or omissions of any other entity or person who is not an employee of such individual or entity whose liability is limited by the provisions of this chapter.

Such limitation shall apply to all claims for contribution.

3. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, where the trier of fact is a jury, such jury shall not be instructed by the court with respect to the limitation on an award of noneconomic damages, nor shall counsel for any party or any person providing testimony during such proceeding in any way inform the jury or potential jurors of such limitation.

4. **[**The limitation on awards for noneconomic damages provided for in this section shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.**] For purposes of sections 538.205 to 538.230, any spouse claiming damages for loss of consortium of their spouse shall be considered to be the same plaintiff as their spouse.**

5. Any provision of law or court rule to the contrary notwithstanding, an award of punitive damages against a health care provider governed by the provisions of sections 538.205 to 538.230 shall be made only upon a showing by a plaintiff that the health care provider demonstrated willful, wanton or malicious misconduct with respect to his actions which are found to have injured or caused or contributed to cause the damages claimed in the petition.

6. For purposes of sections 538.205 to 538.230, all individuals and entities asserting a claim for a wrongful death under section 537.080, RSMo, shall be considered to be one plaintiff.

538.220. DAMAGES, HOW PAID — SECURITY REQUIRED FOR FUTURE DAMAGE PAYMENTS, WHEN, DURATION — ATTORNEY'S FEES — DEATH OF JUDGMENT CREDITOR, EFFECT. — 1. In any action against a health care provider for damages for personal injury or

death arising out of the rendering of or the failure to render health care services, past damages shall be payable in a lump sum.

2. At the request of any party to such action made prior to the entry of judgment, the court shall include in the judgment a requirement that future damages be paid in whole or in part in periodic or installment payments if the total award of damages in the action exceeds one hundred thousand dollars. Any judgment ordering such periodic or installment payments shall specify **a future medical periodic payment schedule, which shall include** the recipient, the amount of each payment, the interval between payments, and the number of payments. **The duration of the future medical payment schedule shall be for a period of time equal to the life expectancy of the person to whom such services were rendered, as determined by the court, based solely on the evidence of such life expectancy presented by the plaintiff at trial. The amount of each of the future medical periodic payments shall be determined by dividing the total amount of future medical damages by the number of future medical periodic payments. The court shall apply interest on such future periodic payments at a per annum interest rate no greater than the coupon issue yield equivalent, as determined by the Federal Reserve Board, of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment. The judgment shall state the applicable interest rate.** The parties shall be afforded the opportunity to agree on the manner of payment of future damages, including the rate of interest, if any, to be applied, subject to court approval. However, in the event the parties cannot agree, the unresolved issues shall be submitted to the court for resolution, either with or without a post-trial evidentiary hearing which may be called at the request of any party or the court. If a defendant makes the request for payment pursuant to this section, such request shall be binding only as to such defendant and shall not apply to or bind any other defendant.

3. As a condition to authorizing periodic payments of future damages, the court may require a judgment debtor who is not adequately insured to post security or purchase an annuity adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security or so much as remains to the judgment debtor.

4. If a plaintiff and his attorney have agreed that attorney's fees shall be paid from the award, as part of a contingent fee arrangement, it shall be presumed that the fee will be paid at the time the judgment becomes final. If the attorney elects to receive part or all of such fees in periodic or installment payments from future damages, the method of payment and all incidents thereto shall be a matter between such attorney and the plaintiff and not subject to the terms of the payment of future damages, whether agreed to by the parties or determined by the court.

5. Upon the death of a judgment creditor, the right to receive payments of future damages, other than future medical damages, being paid by installments or periodic payments will pass in accordance with the Missouri probate code unless otherwise transferred or alienated prior to death. Payment of future medical damages will continue to the estate of the judgment creditor only for as long as necessary to enable the estate to satisfy medical expenses of the judgment creditor that were due and owing at the time of death, which resulted directly from the injury for which damages were awarded, and do not exceed the dollar amount of the total payments for such future medical damages outstanding at the time of death.

6. Nothing in this section shall prevent the parties from contracting and agreeing to settle and resolve the claim for future damages. If such an agreement is reached by the parties, the future periodic payment schedule shall not apply.

538.225. AFFIDAVIT BY A HEALTH CARE PROVIDER CERTIFYING MERIT OF CASE — LEGALLY QUALIFIED HEALTH CARE PROVIDER, DEFINED — CONTENT FILED, WHEN — FAILURE TO FILE, EFFECT — IN CAMERA REVIEW, WHEN. — 1. In any action against a health care provider for damages for personal injury or death on account of the rendering of or failure to render health care services, the plaintiff or **[**his**]** **the plaintiff's** attorney shall file an affidavit

with the court stating that he **or she** has obtained the written opinion of a legally qualified health care provider which states that the defendant health care provider failed to use such care as a reasonably prudent and careful health care provider would have under similar circumstances and that such failure to use such reasonable care directly caused or directly contributed to cause the damages claimed in the petition.

2. **As used in this section, the term "legally qualified health care provider" shall mean a health care provider licensed in this state or any other state in the same profession as the defendant and either actively practicing or within five years of retirement from actively practicing substantially the same specialty as the defendant.**

3. The affidavit shall state the **name, address, and** qualifications of such health care providers to offer such opinion.

[3.**] 4.** A separate affidavit shall be filed for each defendant named in the petition.

[4.**] 5.** Such affidavit shall be filed no later than ninety days after the filing of the petition unless the court, for good cause shown, orders that such time be extended **for a period of time not to exceed an additional ninety days**.

[5.**] 6.** If the plaintiff or his attorney fails to file such affidavit the court **[**may**] shall**, upon motion of any party, dismiss the action against such moving party without prejudice.

7. Within one hundred eighty days after the filing of the petition, any defendant may file a motion to have the court examine in camera the aforesaid opinion and if the court determines that the opinion fails to meet the requirements of this section, then the court shall conduct a hearing within thirty days to determine whether there is probable cause to believe that one or more qualified and competent health care providers will testify that the plaintiff was injured due to medical negligence by a defendant. If the court finds that there is no such probable cause, the court shall dismiss the petition and hold the plaintiff responsible for the payment of the defendant's reasonable attorney fees and costs.

538.228. IMMUNITY FROM CIVIL LIABILITY FOR CERTAIN HEALTH CARE PROFESSIONALS AND ENTITIES, WHEN. — Any physician licensed under chapter 334, RSMo, who provides medical treatment to a patient at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, a combined city-county health department, or a nonprofit community health center or other nonprofit entity that solely provides free health care services and is qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, shall not be liable for any civil damages for acts or omissions unless the damages were occasioned by gross negligence or by willful or wanton acts or omissions by such physician in rendering such treatment or unless the physician maintained, at the time of treatment, liability insurance for such treatment, provided that such treatment:

(1) Shall not include the performance of an abortion; and

(2) Is certified in advance of the treatment as being rendered free of charge to the patient, with no compensation from any party or third-party provider, or any attempt to obtain compensation from any third-party provider.

For purposes of this section, a physician covered under the state legal expense fund under section 105.711, RSMo, shall not be construed as maintaining liability insurance coverage under this section.

538.229. CERTAIN STATEMENTS, WRITINGS, AND BENEVOLENT GESTURES INADMISSIBLE, WHEN — DEFINITIONS. — 1. The portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability in a civil action. However, nothing in this section shall prohibit admission of a statement of fault.

2. For the purposes of this section, the following terms mean:

(1) "Benevolent gestures", actions which convey a sense of compassion or commiseration emanating from humane impulses;

(2) "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of a parent, or spouse's parents of an injured party.

538.232. VENUE FOR CERTAIN ACTIONS AGAINST HEALTH CARE PROVIDERS, WHERE. — In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, for purposes of determining venue under section 508.010, RSMo, the plaintiff shall be considered injured by the health care provider only in the county where the plaintiff first received treatment by a defendant for a medical condition at issue in the case.

538.300. CERTAIN LAWS NOT APPLICABLE TO SECTIONS 538.205 TO 538.230. — The provisions of sections 260.552, RSMo, **[**490.715, RSMo, 509.050, RSMo, 510.263, RSMo, 537.067,**]** **sections** 537.068**[**,**]** **and** 537.117, **[**537.675,**]** and 537.760 to 537.765, RSMo, and **[**subsection 2**]** **subsections 2 and 3** of section 408.040, RSMo, shall not apply to actions under sections 538.205 to 538.230.

SECTION 1. SEVERABILITY CLAUSE. — If any provision of this act is found by a court of competent jurisdiction to be invalid or unconstitutional it is the stated intent of the legislature that the legislature would have approved the remaining portions of the act, and the remaining portions of the act shall remain in full force and effect.

SECTION 2. APPLICABILITY TO CAUSES OF ACTION, WHEN. — The provisions of this act, except for section 512.099, RSMo, shall apply to all causes of action filed after August 28, 2005.

SECTION 3. TRANSFER OF CASE BASED ON ADDITION OR REMOVAL OF A PLAINTIFF OR DEFENDANT PRIOR TO COMMENCEMENT OF TRIAL. — At any time prior to the commencement of a trial, if a plaintiff or defendant, including a third-party plaintiff or defendant, is either added or removed from a petition filed in any court in the state of Missouri which would have, if originally added or removed to the initial petition, altered the determination of venue under section 508.010, RSMo, then the judge shall upon application of any party transfer the case to a proper forum under section 476.410, RSMo.

[355.176. SERVICE. — 1. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

2. If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office shown in the most recent annual report filed pursuant to section 355.856. Service is perfected under this subsection on the earliest of:

(1) The date the corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the corporation; or

(3) Five days after its deposit in the United States mail, if mailed and correctly addressed with first class postage affixed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

4. Suits against a nonprofit corporation shall be commenced only in one of the following locations:

(1) the county in which the nonprofit corporation maintains its principal place of business;

(2) the county where the cause of action accrued;

(3) the county in which the office of the registered agent for the nonprofit corporation is maintained.**]**

[508.040. SUITS AGAINST CORPORATIONS, WHERE COMMENCED. — Suits against corporations shall be commenced either in the county where the cause of action accrued, or in case the corporation defendant is a railroad company owning, controlling or operating a railroad running into or through two or more counties in this state, then in either of such counties, or in any county where such corporations shall have or usually keep an office or agent for the transaction of their usual and customary business.**]**

[508.070. SUITS AGAINST MOTOR CARRIER, WHERE BROUGHT. — 1. Suit may be brought against any motor carrier which is subject to regulation pursuant to chapter 390, RSMo, in any county where the cause of action may arise, in any town or county where the motor carrier operates, or judicial circuit where the cause of action accrued, or where the defendant maintains an office or agent, and service may be had upon the motor carrier whether an individual person, firm, company, association, or corporation, by serving process upon the director, division of motor carrier and railroad safety.

2. When a summons and petition are served upon the director, division of motor carrier and railroad safety, naming any motor carrier, either a resident or nonresident of this state, as a defendant in any action, the director shall immediately mail the summons and petition by registered United States mail to the motor carrier at the business address of the motor carrier as it appears upon the records of the commission. The director shall request from the postmaster a return receipt from the motor carrier to whom the registered letter enclosing copy of summons and petition is mailed. The director shall inform the clerk of the court out of which the summons was issued that the summons and petition were mailed to the motor carrier, as herein described, and the director shall forward to the clerk the return receipt showing delivery of the registered letter.

3. Each motor carrier not a resident of this state and not maintaining an office or agent in this state shall, in writing, designate the director as its authorized agent upon whom legal service may be had in all actions arising in this state from any operation of the motor vehicle pursuant to authority of any certificate or permit, and service shall be had upon the nonresident motor carrier as herein provided.

4. There shall be kept in the office of the director, division of motor carrier and railroad safety a permanent record showing all process served, the name of the plaintiff and defendant, the court from which the summons issued, the name and title of the officer serving the same, the day and the hour of service, the day and date on which petition and summons were forwarded to the defendant or defendants by registered letter, the date on which return receipt is received by the director, and the date on which the return receipt was forwarded to the clerk of the court out of which the summons was issued.**]**

[508.120. APPLICATION TO DISQUALIFY JUDGE OR FOR CHANGE OF VENUE, WHEN MADE. — No defendant shall be allowed a change of venue and no application by a defendant to disqualify a judge shall be granted unless the application therefor is made before the filing of his answer to the merits, except when the cause for the change of venue or disqualification arises, or information or knowledge of the existence thereof first comes to him, after the filing of his answer in which case the application shall state the time when the cause arose or when applicant acquired information and knowledge thereof, and the application must be made within five days thereafter.**]**

[510.340. MOTION FOR NEW TRIAL, WHEN FILED. — A motion for a new trial shall be filed not later than ten days after the entry of the judgment. The judgment shall be entered as of

the day of the verdict. If a timely motion is filed the judgment is not final until disposition of the motion.**]**

[538.230. APPORTIONMENT OF FAULT AUTHORIZED — DEFENDANTS JOINTLY AND SEVERALLY LIABLE, WHEN — RELEASE OF ONE DEFENDANT, EFFECT. — 1. In any action against a health care provider for damages for personal injury or death on account of the rendering of or failure to render health care services where fault is apportioned among the parties and persons released pursuant to subsection 3 of this section, the court, unless otherwise agreed by all the parties, shall instruct the jury to apportion fault among such persons and parties, or the court, if there is no jury, shall make findings, indicating the percentage of total fault of all the parties to each claim that is allocated to each party and person who has been released from liability under subsection 3 of this section.

2. The court shall determine the award of damages to each plaintiff in accordance with the findings, subject to any reduction under subsection 3 of this section and enter judgment against each party liable on the basis of the rules of joint and several liability. However, notwithstanding the provisions of this subsection, any defendant against whom an award of damages is made shall be jointly liable only with those defendants whose apportioned percentage of fault is equal to or less than such defendant.

3. Any release, covenant not to sue, or similar agreement entered into by a claimant and a person or entity against which a claim is asserted arising out of the alleged transaction which is the basis for plaintiff's cause of action, whether actually made a party to the action or not, discharges that person or entity from all liability for contribution or indemnity but it does not discharge other persons or entities liable upon such claim unless it so provides. However, the claim of the releasing person against other persons or entities is reduced by the amount of the released persons' or entities' equitable share of the total obligation imposed by the court pursuant to a full apportionment of fault under this section as though there had been no release.**]**

Approved March 29, 2005

HB 395 [HB 395]

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

Allows all public water supply districts to sell district property to cities

AN ACT to repeal section 247.085, RSMo, and to enact in lieu thereof one new section relating to water supply districts.

SECTION

A. Enacting clause.

247.085. Board may contract for water supply with city, when — publication of notice — sale of property, use of funds.

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

SECTION A. ENACTING CLAUSE. — Section 247.085, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 247.085, to read as follows:

247.085. BOARD MAY CONTRACT FOR WATER SUPPLY WITH CITY, WHEN — PUBLICATION OF NOTICE — SALE OF PROPERTY, USE OF FUNDS. — 1. The board of directors

of any public water supply district **[**which is dependent upon purchases of water to supply its needs**]** shall have power to sell and convey part or all of the property of the district to any city, owning and operating a waterworks system, in consideration whereof the city shall obligate itself to pay or assume the payment of all outstanding bond obligations of the district, and to provide reasonable and adequate water service and furnish water ample in quantity for all needful purposes, and pure and wholesome in quality, to the inhabitants of the territory lying within the district, during such period of time and under such terms and conditions as may be agreed upon by the city and the board of directors of the district; provided, however, that no action shall be taken as provided herein until said city and public water supply district shall cause a printed notice of their intention to act under this section to be published in a manner prescribed for by law in a newspaper having a general circulation in said city and public water supply district, and a statement of the time and manner of said publication shall be recited in any agreement or contract executed hereunder.

2. Thereafter the board of directors may sell and convey any remaining property of the district and after payment of the debts of the district, other than bond obligations, the board of directors may use the funds of the district for the purpose of providing fire protection or for any other public purpose which in the opinion of the board will be beneficial to the inhabitants of the district.

3. The powers granted by this section are in addition to the powers granted by **[**other sections**] law** and are not subject to the terms and conditions set forth in those sections.

Approved July 6, 2005

HB 402 [HB 402]

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 laws regarding the licensing of podiatrists

AN ACT to repeal sections 330.010, 330.020, 330.030, 330.040, 330.045, 330.050, 330.065, 330.070, 330.080, 330.090, 330.100, 330.110, 330.160, 330.180, 330.200, and 330.210, RSMo, and to enact in lieu thereof sixteen new sections relating to podiatrists, with penalty provisions.

SECTION

A. Enacting clause.
330.010. Definitions, ankle surgery, requirements for performing.
330.020. Practice of podiatric medicine — license.
330.030. Issuance of license — qualifications — examination — fees — reciprocity with other states.
330.040. Contents of examination — grading.
330.045. Board of podiatric medicine to establish rules for license qualifications.
330.050. Form of license — display required.
330.065. Temporary license, interns/residents, qualifications — fee.
330.070. Renewal of license, application, contents — postgraduate study required — failure to receive renewal form, effect.
330.080. License renewal fee, when paid.
330.090. Retirement of a person engaged in practice of podiatric medicine.
330.100. Establishment of board — meetings.
330.110. Board of podiatric medicine — appointment — terms — compensation — qualifications.
330.160. Denial, revocation, or suspension of certificate, grounds for.
330.180. Chapter not applicable to surgical officers of the army, or certain others.
330.200. Evidence of practice.
330.210. Fraud, false representation, unlicensed practice — penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 330.010, 330.020, 330.030, 330.040, 330.045, 330.050, 330.065, 330.070, 330.080, 330.090, 330.100, 330.110, 330.160, 330.180, 330.200, and 330.210, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 330.010, 330.020, 330.030, 330.040, 330.045, 330.050, 330.065, 330.070, 330.080, 330.090, 330.100, 330.110, 330.160, 330.180, 330.200, and 330.210, to read as follows:

330.010. DEFINITIONS, ANKLE SURGERY, REQUIREMENTS FOR PERFORMING. — 1. The word "board" whenever used in this chapter means the state board of podiatric medicine.

2. The definitions of the words "podiatrist" or "physician of the foot" shall for the purpose of this section be held to be the diagnosis, medical, physical, or surgical treatment of the ailments of the human foot, with the exception of administration of general anesthetics, or amputation of the foot and with the further exception that the definitions shall not apply to bone surgery on children under the age of one year. The use of such drugs and medicines in the treatment of ailments of the human foot shall not include the treatment of any systemic diseases. For the purposes of this chapter, the term "human foot" includes the ankle and the tendons which insert into the foot as well as the foot. For surgery of the ankle only, the doctor of podiatric medicine licensed pursuant to this chapter shall either be board certified in foot and ankle surgery by the American Board of Podiatric Surgery or shall complete a twenty-four-month **postgraduate clinical** residency in podiatric surgery; provided, however, any newly licensed doctor of podiatric medicine desiring to perform ankle surgery and licensed pursuant to this chapter after January 1, 2005, shall be required to complete a twenty-four-month **postgraduate clinical** residency in podiatric surgery. Nothing in this section shall be construed to prohibit a doctor of podiatric medicine from performing ankle surgery under the direct supervision of a doctor who is authorized to perform surgery of the ankle. Surgical treatment of the ankle by a doctor of podiatric medicine shall be performed only in a licensed acute care hospital or a licensed ambulatory surgical clinic. A doctor of podiatric medicine performing ankle surgery shall be required to complete the **[**same annual**]** **biennial** continuing medical education hourly credit requirements as **[**provided in section 334.075, RSMo, for a doctor of orthopedic surgery**]** **established by the state board of podiatric medicine**. The doctor of podiatric medicine shall have obtained approval of the physician's credentialing committee of a licensed acute care hospital or a licensed ambulatory surgical clinic.

330.020. PRACTICE OF PODIATRIC MEDICINE — LICENSE. — No one shall practice **[**podiatry**]** **podiatric medicine** in this state unless duly licensed **[**and registered**]** as provided by law.

330.030. ISSUANCE OF LICENSE — QUALIFICATIONS — EXAMINATION — FEES — RECIPROCITY WITH OTHER STATES. — Any person desiring to practice **[**podiatry**]** **podiatric medicine** in this state shall furnish the board with satisfactory proof, including a statement under oath or affirmation that all representations are true and correct to the best knowledge and belief of the person submitting and signing same, subject to the penalties of making a false affidavit or declaration, that he or she is twenty-one years of age or over, and of good moral character, and that he or she has received at least four years of high school training, or the equivalent thereof, and has received a diploma or certificate of graduation from an approved college of **[**podiatry**]** **podiatric medicine**, recognized and approved by the board, having a minimum requirement of two years in an accredited college and four years in a recognized college of **[**podiatry**]** **podiatric medicine**. Upon payment of the examination fee, and making satisfactory proof as aforesaid, the applicant shall be examined by the board, or a committee thereof, under such rules and regulations as said board may determine, and if found qualified, shall be licensed, upon payment

of the license fee, to practice **[**podiatry**]** **podiatric medicine** as **[**registered**]** **licensed**; provided, that the board shall, under regulations established by the board, admit without examination legally qualified practitioners of **[**podiatry**]** **podiatric medicine** who hold **[**certificates**]** **licenses** to practice **[**podiatry**]** **podiatric medicine** in any state or territory of the United States or the District of Columbia or any foreign country with equal educational requirements to the state of Missouri upon the applicant paying a fee equivalent to the license and examination fees required above.

330.040. CONTENTS OF EXAMINATION — GRADING. — Examinations shall be in the English language, and shall be written, oral, or clinical, or a combination of two or more of the said methods as the board shall determine and provide by rule. **The examination shall consist of the examination offered by the National Board of Podiatric Medical Examiners, as well as an examination of applicable Missouri statutes and regulations which shall be promulgated or approved by the board.** The examination shall embrace the subjects of anatomy, physiology, chemistry, bacteriology, surgery, histology, pathology, diagnosis and treatment, materia medica and therapeutics as these subjects relate to antiseptics and **[**anaesthetics**]** **anesthetics**, and clinical **[**podiatry**]** **podiatric medicine**, but said examinations shall be so limited in their scope as to cover only the minimum requirements for **[**podiatry**]** **podiatric medical** education as herein provided, and shall not be construed to require of the applicant a medical or surgical education other than deemed necessary for the practice of **[**podiatry**]** **podiatric medicine**. The board shall by rule and regulation prescribe the standard for successful completion of the examination.

330.045. BOARD OF PODIATRIC MEDICINE TO ESTABLISH RULES FOR LICENSE QUALIFICATIONS. — Every applicant for a permanent license as a podiatrist shall provide the state board of **[**podiatry**]** **podiatric medicine** with satisfactory evidence of having successfully completed such postgraduate training in hospitals and such other clinical and surgical settings as the board may prescribe by rule.

330.050. FORM OF LICENSE — DISPLAY REQUIRED. — 1. Upon due application therefor and upon submission by such person of evidence satisfactory to the board that such person is licensed to practice **[**podiatry**]** **podiatric medicine** in this state, and upon the payment of the fees required to be paid by this chapter, the board shall cause to be issued to such applicant a **[**certificate of registration**]** **license**, which **[**certificate**]** **license** shall recite that the person therein named is duly registered for the period specified.

2. Such **[**certificate of registration**]** **license** shall contain the name of the person to whom it is issued and the office address **[**and residence address**]** of such person, the date and number of the license issued to such person to practice **[**podiatry**]** **podiatric medicine**.

3. Every person practicing **[**podiatry**]** **podiatric medicine** shall, upon receiving such **[**certificate**]** **license**, cause the same to be conspicuously displayed at all times in every office maintained by such person or in which he practices **[**podiatry**]** **podiatric medicine** in this state. If such person maintains or practices in more than one office in this state, the board shall**[**, upon the payment of an additional fee to be set by the board, cause to be issued**]** **issue** to such person **a** duplicate **[**certificates of registration**]** **license** for each office so maintained or in which such person may practice. If such person maintains or practices in more than one office in this state, the board shall, **[**without an additional fee, cause to be issued**]** **issue** to such person duplicate renewal **[**certificates of registration**]** **licenses** for each office so maintained or in which such person may practice.

4. If any registrant shall change the location of his office during the period for which any **[**certificate of registration**]** **license** shall have been issued, such registrant shall, within fifteen days thereafter, notify the board of such change, whereupon he shall be issued, without additional fee, a duplicate **[**registration**]** renewal **[**certificate**]** **license** for such new location.

330.065. TEMPORARY LICENSE, INTERNS/RESIDENTS, QUALIFICATIONS — FEE. — 1. Any person desiring to serve a period of internship/residency in a Missouri hospital may do so without obtaining a permanent **[**certificate of registration**]** **license** from the board if he or she qualifies for and obtains a temporary **[**certificate of registration**]** **license** for internship/residency from the board **for a two-year period**.

2. The board shall grant a temporary **[**certificate of registration**]** **license** for internship/residency upon proper application if it finds:

(1) That the applicant has graduated from a college of **[**podiatry**]** **podiatric medicine** recognized and approved by the board; and

(2) That the applicant has successfully passed an examination of the National Board of **[**Podiatry**]** **Podiatric Medical** Examiners or any successor thereof; and

(3) That the internship/residency program the applicant intends to enter is offered by a Missouri hospital accredited by the **[**American Podiatry Association**]** **American Podiatric Medical Association**.

3. Any person desiring to obtain a temporary **[**certificate of registration**]** **license** shall make application to the board with evidence that he or she meets the requirements of this section. There shall be a fee paid by the applicant for the temporary **[**certificate of registration**]** **license**, such fee to be paid upon the issuance of the **[**certificate**]** **license**. There shall be an application fee which shall accompany all applications for a temporary **[**certificate of registration**]** **license** and shall be nonrefundable.

4. **[**The temporary certificate of registration for internship/residency may upon approval by the board for good cause shown be renewed for an additional one-year period.**]** If during the period of internship/residency specified in the temporary **[**certificate**]** **license**, the holder thereof shall transfer from the internship/residency program offered by the hospital specified in his or her application, the holder must, before such transfer, receive approval for the transfer from the board. Upon approval of the transfer, the **new** temporary **[**certificate**]** **license** shall remain valid for **[**one year**]** **a two-year period** from the **[**date of such transfer**]** **original date of issuance**.

330.070. RENEWAL OF LICENSE, APPLICATION, CONTENTS — POSTGRADUATE STUDY REQUIRED — FAILURE TO RECEIVE RENEWAL FORM, EFFECT. — 1. The board shall on or before the first day of the month preceding the **[**registration**]** **biennial license** renewal date cause to be mailed to each person licensed to practice **[**podiatry**]** **podiatric medicine** in this state, at the last known office or residence address of such person, a blank application form for such person's **[**registration**]** **biennial license** renewal.

2. Each person applying for **[**registration**]** **biennial license** renewal shall complete the form and return it to the board on or before the renewal date for the licensing period for which the person desires to be registered.

3. Each applicant shall give on the form such applicant's full name**[**,**]** **and** the applicant's office **[**and residence addresses**]** **address**.

4. Each applicant shall give with the application for **[**registration**]** **biennial license renewal** satisfactory evidence of completion of **[**twelve**]** **twenty-four** hours of postgraduate study for each **[**year**]** **renewal period** since the last issuance or renewal of the license. The postgraduate study required shall be that presented by a college of **[**podiatry**]** **podiatric medicine** accredited by the American **[**Podiatry**]** **Podiatric Medical** Association or a course of study approved by the board.

5. Failure of the registrant to receive the renewal form shall not relieve any registrant of the duty to register and pay the fee required by this chapter nor exempt any such person from the penalties provided by this chapter for failure to register.

330.080. LICENSE RENEWAL FEE, WHEN PAID. — Each applicant for **[**registration**]** **biennial license renewal** under this chapter shall accompany the application for **[**registration**]** **biennial license renewal** with a **[**registration**]** **biennial renewal** fee to be paid to the director of revenue for the licensing period for which **[**registration**]** **licensure** is sought. If said application

be filed and said fee paid after the **biennial** renewal date, there shall be a late fee in addition to the **[**registration**]** **biennial license renewal** fee; provided, however, that whenever in the opinion of the board the applicant's failure to **[**register**]** **renew the license** was caused by extenuating circumstances including illness of the applicant, as defined by rule, the late fee may be waived by such board, and provided further, that whenever any license is granted to any person to practice **[**podiatry**]** **podiatric medicine** under the provisions of this chapter, the board shall upon application therefor cause to be issued to such licensee a **[**certificate of registration**]** **biennial license renewal** covering the period from the date of the issuance of such license to the next **[**registration**]** **biennial license** renewal date without the payment of **[**any**]** **the late** fee.

330.090. RETIREMENT OF A PERSON ENGAGED IN PRACTICE OF PODIATRIC MEDICINE. — Any person licensed to practice **[**podiatry**]** **podiatric medicine** in this state who has retired or may hereafter retire from such practice shall not be required to register as required by this chapter, provided such person shall file with the board an affidavit which states the date on which the person retired from the practice of **[**podiatry**]** **podiatric medicine** and such other facts as shall tend to verify the person's retirement as the board deems necessary; provided, however, that if such person thereafter reengage in the practice of **[**podiatry**]** **podiatric medicine**, the person shall **[**register**]** **reapply** with the board as provided by **[**this chapter**]** **section 330.030. The retired applicant shall be required to submit evidence of satisfactory completion of the applicable continuing education requirements as well as submitting the licensing, processing, and administration fees established by the board**.

330.100. ESTABLISHMENT OF BOARD — MEETINGS. — There is hereby created and established a "State Board of Podiatric Medicine" for the purpose of licensing **[**and registering**]** all practitioners of **[**podiatry**]** **podiatric medicine** in this state, which board shall have such other powers and duties as are provided by this chapter. The board shall meet annually and at such other times and places as a majority of the board shall designate.

330.110. BOARD OF PODIATRIC MEDICINE — APPOINTMENT — TERMS — COMPENSATION — QUALIFICATIONS. — 1. The board shall be composed of five members including one voting public member, to be appointed by the governor with the advice and consent of the senate. Vacancies on the board shall be filled in like manner. The term of office of each member shall be four years. Each member of the board shall receive as compensation an amount set by the board not to exceed **[**fifty**]** **seventy** dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. All members of the board, except the public member, shall be doctors of surgical **[**podiatry**]** **podiatric medicine** duly registered and licensed pursuant to the laws of this state, shall be United States citizens, shall have been residents of this state for at least one year next preceding their appointment and shall have been engaged in the lawful and ethical practice of **[**podiatry**]** **podiatric medicine** for a period of not less than five years. Not more than two of the podiatrists shall belong to the same political party. Members of the board shall not be directly or indirectly interested in any **[**podiatry**]** **podiatric medical** college or the **[**podiatry**]** **podiatric medical** department of any institution of higher learning or in any **[**podiatry**]** **podiatric medical** supply or shoe business. The president of the Missouri Podiatric Medical Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five doctors of surgical **[**podiatry**]** **podiatric medicine** qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Podiatric Medical Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of the member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

[3. All members on the state board of podiatry on August 28, 1995, shall automatically become members of the state board of podiatric medicine.**]**

330.160. DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE, GROUNDS FOR. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, repeated negligence, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed. False, misleading or deceptive advertisements or solicitations shall include, but not be limited to:

(a) Promises of cure, relief from pain or other physical or mental condition, or improved physical or mental health;

(b) Any self-laudatory statement;

(c) Any misleading or deceptive statement offering or promising a free service. Nothing in this paragraph shall be construed to make it unlawful to offer a service for no charge if the offer is announced as part of a full disclosure of routine fees including consultation fees;

(d) Any misleading or deceptive claims of patient cure, relief or improved condition; superiority in service, treatment or materials; new or improved service, treatment or material; or reduced costs or greater savings. Nothing in this paragraph shall be construed to make it unlawful to use any such claim if it is readily verifiable by existing documentation, data or other substantial evidence. Any claim which exceeds or exaggerates the scope of its supporting documentation, data or evidence is misleading or deceptive;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the **[**license, certificate, or permit**]** **certificate of registration or authority, permit, or license**.

4. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's certificate of registration or authority, permit, or license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

5. Before restoring to good standing a certificate of registration or authority, permit, or license that has been revoked, suspended, or inactive for any cause more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

330.180. CHAPTER NOT APPLICABLE TO SURGICAL OFFICERS OF THE ARMY, OR CERTAIN OTHERS. — This chapter shall not apply to the commissioned surgical officers of the United States Army, Navy or Marine hospital service when in the actual performance of their official duties, nor to any physician duly registered, nor to any legally registered podiatrist of another state, taking charge of the practice of a legally registered podiatrist of this state temporarily during the latter's absence therefrom upon the written request to the board of said registered podiatrist of this state. This chapter shall further not apply to manufacturers of and dealers in shoes or corrective appliances for deformed feet; provided, however, that such

manufacturers and dealers shall not be entitled to practice **[**podiatry**] podiatric medicine**, as in this chapter defined, unless duly licensed so to do as herein provided.

330.200. EVIDENCE OF PRACTICE. — It shall be deemed prima facie evidence of the practice of **[**podiatry**] podiatric medicine**, or of holding oneself out as a practitioner within the meaning of this chapter, for any person to treat in any manner the human foot by medical, mechanical, or surgical methods, or to use the title "podiatrist" or "registered podiatrist", or any other words, or letters, which designate, or tend to designate, to the public that the person so treating or holding himself or herself out to treat, is a podiatrist.

330.210. FRAUD, FALSE REPRESENTATION, UNLICENSED PRACTICE — PENALTY. — Any person who shall unlawfully obtain **[**registration**] licensure** under this chapter, whether by false or untrue statements contained in his or her application to the board by presenting to said board a fraudulent diploma, certificate, or license, or one fraudulently obtained shall be deemed guilty of a class B misdemeanor; and any person not being lawfully authorized to practice **[**podiatry**] podiatric medicine** in this state and **[**registered**] licensed** as aforesaid, who shall advertise as a podiatrist, in any form, or hold himself out to the public as a podiatrist or who shall practice as a podiatrist shall be guilty of a class A misdemeanor.

Approved July 6, 2005

HB 413 [HB 413]

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 Health and Senior Services to offer a vaccination program for first responders deployed to disaster areas as a result of bioterrorism events

AN ACT to amend chapter 190, RSMo, by adding thereto one new section relating to a bioterrorism vaccination program for first responders deployed to disaster locations, with an emergency clause.

SECTION
A. Enacting clause.
190.091. Vaccination program for first responders offered — definitions — participation voluntary — contingent effective date.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 190, RSMo, is amended by adding thereto one new section, to be known as section 190.091, to read as follows:

190.091. VACCINATION PROGRAM FOR FIRST RESPONDERS OFFERED — DEFINITIONS — PARTICIPATION VOLUNTARY — CONTINGENT EFFECTIVE DATE. — 1. As used in this section, the following terms mean:

(1) "Bioterrorism", the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any microorganism, virus,

infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or any other living organism to influence the conduct of government or to intimidate or coerce a civilian population;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", the director of the department of health and senior services;

(4) "Disaster locations", any geographical location where a bioterrorism attack, terrorist attack, catastrophic or natural disaster, or emergency occurs;

(5) "First responders", state and local law enforcement personnel, fire department personnel, and emergency medical personnel who will be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters, and emergencies.

2. The department shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations as a result of a bioterrorism event or a suspected bioterrorism event. The vaccinations shall include, but are not limited to, smallpox, anthrax, and other vaccinations when recommended by the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices.

3. Participation in the vaccination program shall be voluntary by the first responders, except for first responders who, as determined by their employer, cannot safely perform emergency responsibilities when responding to a bioterrorism event or suspected bioterrorism event without being vaccinated. The recommendations of the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices shall be followed when providing appropriate screening for contraindications to vaccination for first responders. A first responder shall be exempt from vaccinations when a written statement from a licensed physician is presented to their employer indicating that a vaccine is medically contraindicated for such person.

4. If a shortage of the vaccines referred to in subsection 2 of this section exists following a bioterrorism event or suspected bioterrorism event, the director, in consultation with the governor and the federal Centers for Disease Control and Prevention, shall give priority for such vaccinations to persons exposed to the disease and to first responders who are deployed to the disaster location.

5. The department shall notify first responders concerning the availability of the vaccination program described in subsection 2 of this section and shall provide education to such first responders and their employers concerning the vaccinations offered and the associated diseases.

6. The department may contract for the administration of the vaccination program described in subsection 2 of this section with health care providers, including but not limited to, local public health agencies, hospitals, federally qualified health centers, and physicians.

7. The provisions of this section shall become effective upon receipt of federal funding or federal grants which designate that the funding is required to implement vaccinations for first responders in accordance with the recommendations of the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices. Upon receipt of such funding, the department shall make available the vaccines to first responders as provided in this section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the safety of all first responders, 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 30, 2005

HB 422 [HCS HB 422]

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

Conveys the National Guard armory located in Mississippi County to the City of Charleston

AN ACT to authorize the governor to convey property owned by the state in the county of Mississippi to the city of Charleston.

SECTION
1. Conveyance of state property in Mississippi County to City of Charleston.

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

SECTION 1. CONVEYANCE OF STATE PROPERTY IN MISSISSIPPI COUNTY TO CITY OF CHARLESTON. — 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 Mississippi to the city of Charleston. The property to be conveyed is more particularly described as follows:

All of block 2

Beckwith addition

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

4. The sale, transfer, grant, or conveyance of the property described in subsection 1 of this section, cannot be made until the national guard vacates the property.

Approved June 22, 2005

HB 431 [HB 431]

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 buildings located within the 100-year flood plain in the City of Springfield to receive Missouri Downtown and Rural Economic Stimulus Act benefits

AN ACT to repeal section 99.918, RSMo, and to enact in lieu thereof one new section relating to economic stimulus.

SECTION
A. Enacting clause.
99.918. Definitions.

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

SECTION A. ENACTING CLAUSE. — Section 99.918, RSMo, is repealed and one new one section enacted in lieu thereof, to be known as section 99.918, to read as follows:

99.918. DEFINITIONS. — As used in sections 99.915 to 99.980, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Authority", the downtown economic stimulus authority for a municipality, created pursuant to section 99.921;

(2) "Baseline year", the calendar year prior to the adoption of an ordinance by the municipality approving a development project; provided, however, if economic activity taxes or state sales tax revenues, from businesses other than any out-of-state business or businesses locating in the development project area, decrease in the development project area in the year following the year in which the ordinance approving a development project is approved by a municipality, the baseline year may, at the option of the municipality approving the development project, be the year following the year of the adoption of the ordinance approving the development project. When a development project area is located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100, RSMo, due to a natural disaster of major proportions that occurred after May 1, 2003, but prior to May 10, 2003, and the development project area is a central business district that sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency, the baseline year may, at the option of the municipality approving the development project, be the calendar year in which the natural disaster occurred or the year following the year in which the natural disaster occurred, provided that the municipality adopts an ordinance approving the development project within one year after the occurrence of the natural disaster;

(3) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(4) "Central business district", the area at or near the historic core that is locally known as the "downtown" of a municipality that has a median household income of sixty-two thousand dollars or less, according to the last decennial census. In addition, at least fifty percent of existing buildings in this area will have been built in excess of thirty-five years prior or vacant lots that had prior structures built in excess of thirty-five years prior to the adoption of the ordinance approving the redevelopment plan. The historical land use emphasis of a central business district prior to redevelopment will have been a mixed use of business, commercial, financial, transportation, government, and multifamily residential uses;

(5) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes, economic activity taxes other than economic activity taxes which are local sales taxes, and other local taxes other than local sales taxes, and, for local sales taxes and state taxes, the director of revenue;

(6) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more, and such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning;

(7) "Development area", an area designated by a municipality in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area or a conservation area, which area shall have the following characteristics:

(a) It includes only those parcels of real property directly and substantially benefited by the proposed development plan;

(b) It can be renovated through one or more development projects;

(c) It is located in the central business district;

(d) It has generally suffered from declining population or property taxes for the twenty-year period immediately preceding the area's designation as a development area or has structures in the area fifty percent or more of which have an age of thirty-five years or more;

(e) It is contiguous, provided, however that a development area may include up to three noncontiguous areas selected for development projects, provided that each noncontiguous area meets the requirements of paragraphs (a) to (g) herein;

(f) The development area shall not exceed ten percent of the entire area of the municipality; and

(g) The development area shall not include any property that is located within the one hundred year flood plain, as designated by the Federal Emergency Management Agency flood delineation maps, unless such property is protected by a structure that is inspected and certified by the United States Army Corps of Engineers.

This subdivision shall not apply to property within the one hundred year flood plain if the buildings on the property have been or will be flood proofed in accordance with the Federal Emergency Management Agency's standards for flood proofing and the property is located in a home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants. Only those buildings certified as being flood proofed in accordance with the Federal Emergency Management Agency's standards for flood proofing by the authority shall be eligible for the state sales tax increment and the state income tax increment.

Subject to the limitation set forth in this subdivision, the development area can be enlarged or modified as provided in section 99.951;

(8) "Development plan", the comprehensive program of a municipality to reduce or eliminate those conditions which qualified a development area as a blighted area or a conservation area, and to thereby enhance the tax bases of the taxing districts which extend into the development area through the reimbursement, payment, or other financing of development project costs in accordance with sections 99.915 to 99.980 and through the exercise of the powers set forth in sections 99.915 to 99.980. The development plan shall conform to the requirements of section 99.942;

(9) "Development project", any development project within a development area which constitutes a major initiative in furtherance of the objectives of the development plan, and any such development project shall include a legal description of the area selected for such development project;

(10) "Development project area", the area located within a development area selected for a development project;

(11) "Development project costs" include such costs to the development plan or a development project, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure to support for a development project. Such costs shall only be allowed as an initial expense which, to be recoverable, must be included in the costs of a development plan or development project, except in circumstances of plan amendments approved by the Missouri development finance board and the department of economic development. Such infrastructure costs include, but are not limited to, the following:

(a) Costs of studies, appraisals, surveys, plans, and specifications;

(b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;

(e) Costs of construction of public works or improvements;

(f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one or more development projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;

(g) All or a portion of a taxing district's capital costs resulting from any development project necessarily incurred or to be incurred in furtherance of the objectives of the development plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;

(h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a development project;

(i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development, the department of revenue and the office of administration in evaluating an application for and administering state supplemental downtown development financing for a development project; and

(j) Endowment of positions at an institution of higher education which has a designation as a Carnegie Research I University including any campus of such university system, subject to the provisions of section 99.958.

In addition, economic activity taxes and payment in lieu of taxes may be expended on or used to reimburse any reasonable or necessary costs incurred or estimated to be incurred in furtherance of a development plan or a development project;

(12) "Economic activity taxes", the total additional revenue from taxes which are imposed by the municipality and other taxing districts, and which are generated by economic activities within each development project area, which are not related to the relocation of any out-of-state business into the development project area, which exceed the amount of such taxes generated by economic activities within such development project area in the baseline year plus, in development project areas where the baseline year is the year following the year in which the development project is approved by the municipality pursuant to subdivision (2) of this section, the total revenue from taxes which are imposed by the municipality and other taxing districts which is generated by economic activities within the development project area resulting from the relocation of an out-of-state business or out-of-state businesses to the development project area pursuant to section 99.919; but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special assessments. If a retail establishment relocates within one year from one facility to another facility within the same county and the municipality or authority finds that the retail establishment is a direct beneficiary of development financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from taxes which are imposed by the municipality and other taxing districts which are generated by the economic activities within the development project area which exceed the amount of taxes which are imposed by the municipality and other taxing districts which are generated by economic activities within the development project area generated by the retail establishment in the baseline year;

(13) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a

person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo;

(14) "Major initiative", a development project within a central business district that:

(a) Promotes tourism, cultural activities, arts, entertainment, education, research, arenas, multipurpose facilities, libraries, ports, mass transit, museums, or conventions, the estimated cost of which is in excess of the amount set forth below for the municipality, as applicable; or

(b) Promotes business location or expansion, the estimated cost of which is in excess of the amount set forth below for the municipality, and is estimated to create at least as many new jobs as set forth below within three years of such location or expansion:

Population of Municipality	Estimated Project Cost	New Jobs Created
300,000 or more	$10,000,000	at least 100
100,000 to 299,999	$5,000,000	at least 50
50,001 to 99,999	$1,000,000	at least 10
50,000 or less	$500,000	at least 5;

(15) "Municipality", any city, village, incorporated town, or any county of this state established on or prior to January 1, 2001, or a census-designated place in any county designated by the county for purposes of sections 99.915 to 99.1060;

(16) "New job", any job defined as a new job pursuant to subdivision (11) of section 100.710, RSMo;

(17) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the municipality or authority, or other public entity authorized to issue such obligations pursuant to sections 99.915 to 99.980 to carry out a development project or to refund outstanding obligations;

(18) "Ordinance", an ordinance enacted by the governing body of any municipality or an order of the governing body of such a municipal entity whose governing body is not authorized to enact ordinances;

(19) "Other net new revenues", the amount of state sales tax increment or state income tax increment or the combination of the amount of each such increment as determined under section 99.960;

(20) "Out-of-state business", a business entity or operation that has been located outside of the state of Missouri prior to the time it relocates to a development project area;

(21) "Payment in lieu of taxes", those revenues from real property in each development project area, which taxing districts would have received had the municipality not adopted a development plan and the municipality not adopted development financing, and which would result from levies made after the time of the adoption of development financing during the time the current equalized value of real property in such development project area exceeds the total equalized value of real property in such development project area during the baseline year until development financing for such development project area expires or is terminated pursuant to sections 99.915 to 99.980;

(22) "Special allocation fund", the fund of the municipality or its authority required to be established pursuant to section 99.957 which special allocation fund shall contain at least four separate segregated accounts into which payments in lieu of taxes are deposited in one account, economic activity taxes are deposited in a second account, other net new revenues are deposited in a third account, and other revenues, if any, received by the authority or the municipality for the purpose of implementing a development plan or a development project are deposited in a fourth account;

(23) "State income tax increment", up to fifty percent of the estimate of the income tax due the state for salaries or wages paid to new employees in new jobs at a business located in the development project area and created by the development project. The estimate shall be a percentage of the gross payroll which percentage shall be based upon an analysis by the

department of revenue of the practical tax rate on gross payroll as a factor in overall taxable income;

(24) "State sales tax increment", up to one-half of the incremental increase in the state sales tax revenue in the development project area. In no event shall the incremental increase include any amounts attributable to retail sales unless the Missouri development finance board and the department of economic development are satisfied based on information provided by the municipality or authority, and such entities have made a finding that a substantial portion of all but a de minimus portion of the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase for an existing facility shall be the amount by which the state sales tax revenue generated at the facility exceeds the state sales tax revenue generated at the facility in the baseline year. The incremental increase in development project areas where the baseline year is the year following the year in which the development project is approved by the municipality pursuant to subdivision (2) of this section shall be the state sales tax revenue generated by out-of-state businesses relocating into a development project area. The incremental increase for a Missouri facility which relocates to a development project area shall be the amount by which the state sales tax revenue of the facility exceeds the state sales tax revenue for the facility in the calendar year prior to relocation;

(25) "State sales tax revenues", 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;

(26) "Taxing districts", any political subdivision of this state having the power to levy taxes; and

(27) "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from a development project.

Approved July 14, 2005

HB 437 [SS SCS HCS HB 437]

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

Authorizes a contribution check-off box on state income tax forms for the Missouri Military Family Relief Fund and modifies the educational assistance grant program of the Missouri National Guard

AN ACT to repeal section 173.239, RSMo, and to enact in lieu thereof four new sections relating to Missouri military family relief.

SECTION

A. Enacting clause.
41.216. Grants from the Missouri military family relief fund, who may authorize — rulemaking authority.
41.218. Missouri military family relief fund created, use of moneys.
143.822. Tax refund may be designated to the Missouri military family relief fund — sunset provision.
173.239. National guard member educational assistance grant, qualifications — limits — administration.

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

SECTION A. ENACTING CLAUSE. — Section 173.239, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 41.216, 41.218, 143.822, and 173.239, to read as follows:

41.216. GRANTS FROM THE MISSOURI MILITARY FAMILY RELIEF FUND, WHO MAY AUTHORIZE — RULEMAKING AUTHORITY. — 1. Subject to appropriation and upon the recommendation of a panel consisting of a command sergeants major of the Missouri national guard, a command sergeants major of a reserve component or its equivalent, and a representative of the Missouri veterans commission who shall establish criteria for the grants by the promulgation of rules and regulations, the adjutant general shall have the power to make grants from the Missouri military family relief fund to families of persons who are members of the Missouri national guard or Missouri residents who are members of the reserves of the armed forces of the United States and who have been called to active duty as a result of the September 11, 2001, terrorist attacks.

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, 2005, shall be invalid and void.

41.218. MISSOURI MILITARY FAMILY RELIEF FUND CREATED, USE OF MONEYS. — The "Missouri Military Family Relief Fund" is hereby created in the state treasury and shall consist of all gifts, donations, appropriations, transfers, and bequests to the fund. The adjutant general shall have the power to make grants from the fund, as specified under subsection 1 of section 41.216. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri military family relief 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. Moneys in the fund shall be used for the purpose of funding the provisions of section 41.216.

143.822. TAX REFUND MAY BE DESIGNATED TO THE MISSOURI MILITARY FAMILY RELIEF FUND — SUNSET PROVISION. — 1. In each taxable year beginning on or after January 1, 2005, 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 Missouri military family relief fund. If any individual or corporation that 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 Missouri military family relief 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 Missouri military family relief fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the Missouri military family relief fund as provided in subsection 2 of this section.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the Missouri military family relief fund. The fund shall be administered by a command sergeants major of the Missouri national guard, a command sergeants major of a reserve component or its equivalent, and a representative of the Missouri veterans commission.

3. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the cost of collection, handling, and administration by the department of revenue during fiscal year 2006, to the Missouri military family relief fund, not to exceed seventy thousand dollars.

4. A contribution designated under this section shall only be deposited in the Missouri military family relief fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the Missouri military family relief fund shall be distributed by the adjutant general in accordance with the provisions of sections 41.216 and 41.218, RSMo.

6. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

173.239. NATIONAL GUARD MEMBER EDUCATIONAL ASSISTANCE GRANT, QUALIFICATIONS — LIMITS — ADMINISTRATION. — 1. Any member of the Missouri national guard who possesses the qualifications set forth in this section may be awarded an educational assistance grant to an approved public institution or an approved private institution, as those terms are defined in either section 173.205 or section 173.778, of his or her choice while he or she is a member of the Missouri national guard. Funding for educational assistance pursuant to this section may be requested annually in the budget of the Missouri national guard. Educational assistance provided pursuant to this section shall not exceed funds appropriated for that purpose.

2. Educational assistance provided under this section shall not exceed the least of the following:

(1) The actual tuition, as defined in section 173.260, charged at an approved institution where the individual is enrolled or accepted for enrollment; or

(2) The amount of tuition charged a Missouri resident at the University of Missouri for attendance;

(3) The grants provided under this section may be prorated subject to appropriations in an amount no less than fifty percent of the limits set forth in this section.

3. A member of the Missouri national guard seeking educational assistance pursuant to this section shall provide a certificate of satisfactory service of his or her Missouri national guard duties from his or her commanding officer and shall possess all other necessary entrance requirements of the school of his or her choice and shall maintain a cumulative grade point average (GPA) of at least two point five on a four point scale, or the equivalent on another scale approved by the program administrator, while attending the approved public or private institution.

4. If the grade point average of a member who is receiving educational assistance pursuant to this section falls below two point five on a four point scale, or the equivalent on another scale, such member shall retain the educational assistance and shall be placed on probation under the educational assistance program. Failure to achieve a current grade point average of at least two point five on a four point scale, or the equivalent on another scale for future semesters or equivalent academic terms shall result in termination of the scholarship effective as of the next

academic term. The member shall be removed from probation status upon achieving a cumulative grade point average of two point five on a four point scale or the equivalent on another scale.

5. If a recipient of educational assistance pursuant to this section ceases to **[**be a member of the Missouri national guard**] maintain their military affiliation** while enrolled in a course of study or within three years after the completion of a course of study for any reason except death **[**or**],** disability, **or medical disqualification** the educational assistance shall be terminated and the recipient shall repay any amounts awarded pursuant to this section. **For the purposes of this section, individuals who are called to active duty will be credited for time served in fulfillment of their three-year obligation.**

6. **[**State educational assistance on behalf of Missouri national guard members pursuant to this section shall be used only after all available federal Department of Defense educational assistance funds have been expended.

7.**]** Applicants for educational assistance pursuant to this section shall meet the qualifications established by section 173.215, except the provisions of subdivisions (2) and (4) of subsection 1 of section 173.215, and shall be qualified, full-time or part-time students.

[8.**] 7.** The educational assistance program established pursuant to this section shall be administered by the office of the adjutant general of the Missouri national guard. The Missouri national guard shall establish guidelines for equitable distribution of educational assistance.

Approved June 28, 2005

HB 441 [SS SCS HCS HB 441]

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 laws regarding the sale of compounds containing ephedrine and pseudoephedrine

AN ACT to repeal sections 195.017 and 195.417, RSMo, and to enact in lieu thereof two new sections relating to the scheduling and sale of certain controlled substances, with penalty provisions and an emergency clause.

SECTION
A. Enacting clause.
195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually.
195.417. Limit on sale or dispensing of certain drugs, exceptions — violations, penalty.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 195.017 and 195.417, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 195.017 and 195.417, to read as follows:

195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY. — 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

(1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl;
(b) Acetylmethadol;
(c) Allylprodine;
(d) Alphacetylmethadol;
(e) Alphameprodine;
(f) Alphamethadol;
(g) Alpha-methylfentanyl;
(h) Alpha-methylthiofentanyl;
(i) Benzethidine;
(j) Betacetylmethadol;
(k) Beta-hydroxyfentanyl;
(l) Beta-hydroxy-3-methylfentanyl;
(m) Betameprodine;
(n) Betamethadol;
(o) Betaprodine;
(p) Clonitazene;
(q) Dextromoramide;
(r) Diampromide;
(s) Diethylthiambutene;
(t) Difenoxin;
(u) Dimenoxadol;
(v) Dimepheptanol;
(w) Dimethylthiambutene;
(x) Dioxaphetyl butyrate;
(y) Dipipanone;
(z) Ethylmethylthiambutene;
(aa) Etonitazene;
(bb) Etoxeridine;
(cc) Furethidine;
(dd) Hydroxypethidine;
(ee) Ketobemidone;
(ff) Levomoramide;
(gg) Levophenacylmorphan;
(hh) 3-Methylfentanyl;
(ii) 3-Methylthiofentanyl;
(jj) Morpheridine;
(kk) MPPP;
(ll) Noracymethadol;
(mm) Norlevorphanol;
(nn) Normethadone;
(oo) Norpipanone;
(pp) Para-fluorofentanyl;
(qq) PEPAP;
(rr) Phenadoxone;

(ss) Phenampromide;
(tt) Phenomorphan;
(uu) Phenoperidine;
(vv) Piritramide;
(ww) Proheptazine;
(xx) Properidine;
(yy) Propiram;
(zz) Racemoramide;
(aaa) Thiofentanyl;
(bbb) Tilidine;
(ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine;
(b) Acetyldihydrocodeine;
(c) Benzylmorphine;
(d) Codeine methylbromide;
(e) Codeine-N-Oxide;
(f) Cyprenorphine;
(g) Desomorphine;
(h) Dihydromorphine;
(i) Drotebanol;
(j) Etorphine; (except Hydrochloride Salt);
(k) Heroin;
(l) Hydromorphinol;
(m) Methyldesorphine;
(n) Methyldihydromorphine;
(o) Morphine methylbromide;
(p) Morphine methylsulfonate;
(q) Morphine-N-Oxide;
(r) Myrophine;
(s) Nicocodeine;
(t) Nicomorphine;
(u) Normorphine;
(v) Pholcodine;
(w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 4-bromo-2,5-dimethoxyamphetamine;
(b) 4-bromo-2, 5-dimethoxyphenethylamine;
(c) 2,5-dimethoxyamphetamine;
(d) 2,5-dimethoxy-4-ethylamphetamine;
(e) 4-methoxyamphetamine;
(f) 5-methoxy-3,4-methylenedioxyamphetamine;
(g) 4-methyl-2,5-dimethoxy amphetamine;
(h) 3,4-methylenedioxyamphetamine;
(i) 3,4-methylenedioxymethamphetamine;
(j) 3,4-methylenedioxy-N-ethylamphetamine;
(k) N-nydroxy-3, 4-methylenedioxyamphetamine;

(l) 3,4,5-trimethoxyamphetamine;
(m) Alpha-ethyltryptamine;
(n) Bufotenine;
(o) Diethyltryptamine;
(p) Dimethyltryptamine;
(q) Ibogaine;
(r) Lysergic acid diethylamide;
(s) Marijuana; (Marihuana);
(t) Mescaline;
(u) Parahexyl;
(v) Peyote, to include all parts of the plant presently classified botanically as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
(w) N-ethyl-3-piperidyl benzilate;
(x) N-methyl-3-piperidyl benzilate;
(y) Psilocybin;
(z) Psilocyn;
(aa) Tetrahydrocannabinols;
(bb) Ethylamine analog of phencyclidine;
(cc) Pyrrolidine analog of phencyclidine;
(dd) Thiophene analog of phencyclidine;
(ee) 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
(a) Gamma hydroxybutyric acid;
(b) Mecloqualone;
(c) Methaqualone;

(6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:
(a) Aminorex;
(b) Cathinone;
(c) Fenethylline;
(d) Methcathinone;
(e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro- 4-methyl-5-phenyl-2-oxazolamine);
(f) N-ethylamphetamine;
(g) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:
(a) N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;
(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

3. The department of health and senior services shall place a substance in Schedule II if it finds that:
(1) The substance has high potential for abuse;
(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

a. Raw opium;
b. Opium extracts;
c. Opium fluid;
d. Powdered opium;
e. Granulated opium;
f. Tincture of opium;
g. Codeine;
h. Ethylmorphine;
i. Etorphine hydrochloride;
j. Hydrocodone;
k. Hydromorphone;
l. Metopon;
m. Morphine;
n. Oxycodone;
o. Oxymorphone;
p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) Alfentanil;
(b) Alphaprodine;
(c) Anileridine;
(d) Bezitramide;
(e) Bulk Dextropropoxyphene;
(f) Carfentanil;
(g) Butyl nitrite;
(h) Dihydrocodeine;
(i) Diphenoxylate;
(j) Fentanyl;
(k) Isomethadone;
(l) Levo-alphacetylmethadol;
(m) Levomethorphan;
(n) Levorphanol;
(o) Metazocine;

(p) Methadone;
(q) Meperidine;
(r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
(s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane — carboxylic acid;
(t) Pethidine;
(u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
(v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperdine-4-carboxylic acid;
(x) Phenazocine;
(y) Piminodine;
(z) Racemethorphan;
(aa) Racemorphan;
(bb) Sulfentanil;
(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(b) Methamphetamine, its salts, isomers, and salts of its isomers;
(c) Phenmetrazine and its salts;
(d) Methylphenidate;
(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
(a) Amobarbital;
(b) Glutethimide;
(c) Pentobarbital;
(d) Phencyclidine;
(e) Secobarbital;
(5) Any material, compound or compound which contains any quantity of the following substances:
(a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;
(b) Nabilone;
(6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
(a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
(b) Immediate precursors to phencyclidine (PCP):
a. 1-phenylcyclohexylamine;
b. 1-piperidinocyclohexanecarbonitrile (PCC).
5. The department of health and senior services shall place a substance in Schedule III if it finds that:
(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
(2) The substance has currently accepted medical use in treatment in the United States; and
(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.
6. The controlled substances listed in this subsection are included in Schedule III:
(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
(a) Benzphetamine;

(b) Chlorphentermine;
(c) Clortermine;
(d) Phendimetrazine;
(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:
(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:
a. Amobarbital;
b. Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;
c. Secobarbital;
d. Pentobarbital;
(b) Any suppository dosage form containing any quantity or salt of the following:
a. Amobarbital;
b. Secobarbital;
c. Pentobarbital;
(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;
(d) Chlorhexadol;
(e) Ketamine, its salts, isomers, and salts of isomers;
(f) Lysergic acid;
(g) Lysergic acid amide;
(h) Methyprylon;
(i) Sulfondiethylmethane;
(j) Sulfonethylmethane;
(k) Sulfonmethane;
(l) Tiletamine and zolazepam or any salt thereof;
(3) Nalorphine;
(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:
(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Anabolic steroids. Unless specially excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(a) Boldenone;
(b) Chlorotestosterone (4-Chlortestosterone);
(c) Clostebol;
(d) Dehydrochlormethyltestosterone;
(e) Dihydrostestosterone (4-Dihydro-testosterone);
(f) Drostanolone;
(g) Ethylestrenol;
(h) Fluoxymesterone;
(i) Formebulone (Formebolone);
(j) Mesterolone;
(k) Methandienone;
(l) Methandranone;
(m) Methandriol;
(n) Methandrostenolone;
(o) Methenolone;
(p) Methyltestosterone;
(q) Mibolerone;
(r) Nandrolone;
(s) Norethandrolone;
(t) Oxandrolone;
(u) Oxymesterone;
(v) Oxymetholone;
(w) Stanolone;
(x) Stanozolol;
(y) Testolactone;
(z) Testosterone;
(aa) Trenbolone;

(bb) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for that administration.

(6) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethy-lamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alprazolam;
(b) Barbital;
(c) Bromazepam;
(d) Camazepam;
(e) Chloral betaine;
(f) Chloral hydrate;
(g) Chlordiazepoxide;
(h) Clobazam;
(i) Clonazepam;
(j) Clorazepate;
(k) Clotiazepam;
(l) Cloxazolam;
(m) Delorazepam;
(n) Diazepam;
(o) Estazolam;
(p) Ethchlorvynol;
(q) Ethinamate;
(r) Ethyl loflazepate;
(s) Fludiazepam;
(t) Flunitrazepam;
(u) Flurazepam;
(v) Halazepam;
(w) Haloxazolam;
(x) Ketazolam;
(y) Loprazolam;
(z) Lorazepam;
(aa) Lormetazepam;
(bb) Mebutamate;
(cc) Medazepam;
(dd) Meprobamate;
(ee) Methohexital;

(ff) Methylphenobarbital;
(gg) Midazolam;
(hh) Nimetazepam;
(ii) Nitrazepam;
(jj) Nordiazepam;
(kk) Oxazepam;
(ll) Oxazolam;
(mm) Paraldehyde;
(nn) Petrichloral;
(oo) Phenobarbital;
(pp) Pinazepam;
(qq) Prazepam;
(rr) Quazepam;
(ss) Temazepam;
(tt) Tetrazepam;
(uu) Triazolam;
(vv) Zolpidem;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Cathine ((+)-norpseudoephedrine);
(b) Diethylpropion;
(c) Fencamfamin;
(d) Fenproporex;
(e) Mazindol;
(f) Mefenorex;
(g) Pemoline, including organometallic complexes and chelates thereof;
(h) Phentermine;
(i) Pipradrol;
(j) SPA ((-)-1-dimethyamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts: pentazocine;

(6) **[**Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers and salts of isomers: ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient;**]** **Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;**

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any material, compound, mixture or preparation containing any of the following narcotic drug and its salts: buprenorphine;

(2) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(3) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone**[.];**

(4) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers.

11. If any compound, mixture, or preparation as specified in subdivision (4) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist or registered pharmacy technician shall require any person purchasing, receiving or otherwise acquiring such compound, mixture, or preparation, who is not known to the pharmacist or registered pharmacy technician, to furnish suitable photo identification showing the date of birth of the person.

12. Within ninety days of the enactment of this section, pharmacists and registered pharmacy technicians shall implement and maintain a written or electronic log of each transaction. Such log shall include the following information:

(1) The name and address of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date of each purchase; and

(4) The name or initials of the pharmacist or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

14. Within thirty days of the enactment of this section, all persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

15. Within thirty days of the enactment of this section, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, and which does not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substances registrant.

16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

17. The scheduling of substances specified in subdivision (4) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

[11.**]** **19.** The department of health and senior services shall revise and republish the schedules annually.

20. The department of health and senior services shall promulgate rules under chapter 536, RSMo, regarding the security and storage of Schedule V controlled substances, as described in subdivision (4) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

195.417. LIMIT ON SALE OR DISPENSING OF CERTAIN DRUGS, EXCEPTIONS — CERTAIN PRODUCTS TO BE LOCATED BEHIND PHARMACY COUNTER — VIOLATIONS, PENALTY. — 1. **[**No person shall deliver in any single over-the-counter sale more than:

(1) Two packages or any number of packages that contain a combined total of no more than six grams of any 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 antitheft 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.**] The limits specified in subsection 2 of this section shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription.**

2. Within any thirty-day period, no person shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more

than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

(3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection;

in any total amount greater than nine grams.

3. All packages of any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician under section 195.017.

[3.**] 4.** This section shall supersede **and preempt** any **[**municipal**] local** 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**], including any ordinances or regulations enacted by any political subdivision of the state**. 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.

[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.**]**

5. Persons selling and dispensing substances containing any detectable amount of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall maintain logs, documents, and records as specified in section 195.017. Persons selling only compounds, mixtures, or preparations that are excluded from Schedule V in subsection 17 or 18 of section 195.017 shall not be required to maintain such logs, documents, and records. All logs, records, documents, and electronic information maintained for the dispensing of these products shall be open for inspection and copying by municipal, county, and state or federal law enforcement officers whose duty it is to enforce the controlled substances laws of this state or the United States.

[5.**] 6. Within thirty days of the enactment of this section, all persons who dispense or offer for sale pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.**

7. Within thirty days of the enactment of this section, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, except those that are excluded from schedule V in subsection 17 or 18 of section 195.017, and which does not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substance registrant.

8. Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

9. The provisions of subsection 2 of this section limiting individuals from purchasing the specified amount in any thirty-day period shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form. However, no person shall purchase, receive, or otherwise acquire more than nine grams of any compound, mixture, or preparation excluded in subsection 17 or 18 of section 195.017, in a single purchase as provided in subsection 2 of this section.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect Missouri citizens from crime relating to methamphetamine, 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 15, 2005

HB 443 [SCS HCS HB 443]

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 laws regarding the Public School Retirement System

AN ACT to repeal sections 169.010, 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.140, 169.555, 169.560, 169.561, 169.569, 169.600, 169.610, 169.620, 169.630, 169.650, 169.655, 169.670, 169.673, and 169.712, RSMo, and to enact in lieu thereof twenty-two new sections relating to public school retirement, with a penalty provision.

SECTION

A. Enacting clause.
169.010. Definitions.
169.020. System created, what districts included — trustees, appointment, terms, qualifications, election, duties — venue — state auditor to review audit, when — interest.
169.040. Funds of retirement system, how invested — delegation of investment authority — investments, manner of making, form — designated depository — electronic funds transfer required — closed meetings authorized, when.
169.056. Private school, defined — membership credit for service in private school, purchase, payment, requirements.
169.070. Retirement allowances, how computed, election allowed, time period — options — effect of federal O.A.S.I. coverage — cost-of-living adjustment authorized — limitation of benefits — employment of special consultant, compensation, minimum benefits.
169.073. Partial lump sum distribution, when — options — calculation for changes in distribution amount — death, effect of.
169.075. Survivors' benefits, options — purchase of prior service credits for previous service in another Missouri public school retirement system, cost — monthly retirement allowance — special consultant qualification, compensation, duties — death prior to receipt of total accumulated benefits, effect of.
169.076. Death without a valid designated beneficiary, effect of — most recent valid designation of beneficiary revokes previous designations.
169.140. Junior college, public, full-time employee may be member of retirement system, exception.
169.560. Retirees may be employed for limited time — salary amount, effect on benefits.
169.561. Retirees return to work considered new membership in applicable retirement system — vesting period, contributions, service credit — termination, withdrawal of contributions, when.
169.569. Joint rules promulgated, procedure.
169.600. Definitions.
169.610. System established — board of trustees to administer — funds to be kept separate.

169.620. Contributions by members and employers — rate — penalty for failure to remit — benefits to be reduced, when — purchase of service credit, certain members, how.
169.630. Funds of system, how invested, how accounted for — bank or trust company to serve as depository and intermediary in investment of funds — title to securities, form — electronic funds transfer — closed meetings authorized, when.
169.650. Membership — prior service credit — reinstatement — procedure.
169.655. Purchase of membership credit for service to organization supporting education or research — limitations, requirements — transfer of funds.
169.670. Benefits, how computed — beneficiary benefits, options, election of.
169.673. Partial lump sum distribution, when — changes in distribution amount, formula — death, effect of.
169.676. Death without a valid beneficiary designation, effect of — most recent valid designation of beneficiary revokes previous designations.
169.712. Transfer to public school retirement system, certain public education employees, procedure.
169.555. Rate of contribution to retirement systems, board to fix and certify.

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

SECTION A. ENACTING CLAUSE. — Sections 169.010, 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.140, 169.555, 169.560, 169.561, 169.569, 169.600, 169.610, 169.620, 169.630, 169.650, 169.655, 169.670, 169.673, and 169.712, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 169.010, 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.076, 169.140, 169.560, 169.561, 169.569, 169.600, 169.610, 169.620, 169.630, 169.650, 169.655, 169.670, 169.673, 169.676, and 169.712, to read as follows:

169.010. DEFINITIONS. — The following words and phrases, as used in sections 169.010 to 169.130, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions" shall mean the sum of the annual contributions a member has made to the retirement system through deductions from the member's salary, plus interest compounded annually on each year's contributions from the end of the school year during which such contributions were made;

(2) "Board" shall mean the board of trustees provided for in sections 169.010 to 169.130;

(3) "Creditable service" shall mean prior service or membership service, or the sum of the two, if the member has both to the member's credit;

(4) "District" shall mean public school, as herein defined;

(5) "Employ" shall have a meaning agreeable with that herein given to employer and employee;

(6) "Employee" shall be synonymous with the term "teacher" as the same is herein defined;

(7) "Employer" shall mean the district that makes payment directly to the teacher or employee for such person's services;

(8) "Final average salary" shall mean the total compensation payable to a member for any three consecutive years of creditable service, as elected by the member, divided by thirty-six; with the proviso that any annual compensation entering into the total compensation shall not exceed twelve thousand six hundred dollars for any year prior to July 1, 1967; and with the proviso that the board may set a maximum percentage of increase in annual compensation from one year to the next in the final average salary period;

(9) "Member" shall mean a person who holds membership in the retirement system;

(10) "Membership service" shall mean service rendered by a member of the retirement system after the system becomes operative, and may include a period of service in the armed forces of the United States as provided for in section 169.055;

(11) "Prior service" shall mean service rendered by a member of the retirement system before the system becomes operative, and may include service rendered by a member of the armed forces if the member was a teacher at the time the member was inducted, for which credit has been approved by the board of trustees;

(12) "Public school" shall mean any school conducted within the state under the authority and supervision of a duly elected district or city or town board of directors or board of education and the board of regents of the several state teachers' colleges, or state colleges, board of trustees of the public school retirement system of Missouri, and also the state of Missouri and each county thereof, to the extent that the state and the several counties are employers of teachers as herein designated;

(13) "Retirement allowance" shall mean a monthly payment for life during retirement;

(14) "Retirement system" or "system" shall mean the public school retirement system of Missouri created by sections 169.010 to 169.130;

(15) "Salary", "salary rate" or "compensation" shall mean the regular remuneration, including any payments made pursuant to sections 168.500 to 168.515, RSMo, which is earned by a member as an employee of a district, but not including employer-paid fringe benefits except the value of employer-paid medical benefits (including dental and vision) for members, and not including **employer-paid medical benefits (including dental and vision) for anyone other than the member, employer contributions to any deferred compensation plan,** consideration for agreeing to **[**retire**] terminate employment** or other nonrecurring or unusual payments that are not a part of regular remuneration. The board by its rules may further define salary, salary rate and compensation in a manner consistent with this definition and with sections 169.010 to 169.141;

(16) "School year" shall mean the year from July first of one year to June thirtieth of next year, inclusive, which shall also be the fiscal year of the system;

(17) "Teacher" shall mean any person who shall be employed by any public school, on a full-time basis and who shall be duly certificated under the law governing the certification of teachers; any person employed in the state department of elementary and secondary education or by the state board of education on a full-time basis who shall be duly certificated under the law governing the certification of teachers and who did not become a member of the Missouri state employees' retirement system pursuant to section 104.342, RSMo; and persons employed by the board of trustees of the public school retirement system of Missouri on a full-time basis who shall be duly certified under the law governing the certification of teachers. The term "teacher" shall be synonymous with the term "employee" as defined in this section.

169.020. SYSTEM CREATED, WHAT DISTRICTS INCLUDED — TRUSTEES, APPOINTMENT, TERMS, QUALIFICATIONS, ELECTION, DUTIES — VENUE — STATE AUDITOR TO REVIEW AUDIT, WHEN — INTEREST. — 1. For the purpose of providing retirement allowances and other benefits for public school teachers, there is hereby created and established a retirement system which shall be a body corporate, shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of Missouri". Such system shall, by and in such name, sue and be sued, transact all of its business, invest all of its funds, and hold all of its cash, securities, and other property. The system so created shall include all school districts in this state, except those in cities that had populations of four hundred thousand or more according to the latest United States decennial census, and such others as are or hereafter may be included in a similar system or in similar systems established by law and made operative; provided, that teachers in school districts of more than four hundred thousand inhabitants who are or may become members of a local retirement system may become members of this system with the same legal benefits as accrue to present members of such state system on the terms and under the conditions provided for in section 169.021. The system hereby established shall begin operations on the first day of July next following the date upon which sections 169.010 to 169.130 shall take effect.

2. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 169.010 to 169.141 are hereby vested in a board of trustees of seven persons as follows: four persons to be elected as trustees by the members and retired members of the public school retirement system created by

sections 169.010 to 169.141 and the **[**nonteacher school**] public education** employee retirement system created by sections 169.600 to 169.715; and three members appointed by the governor with the advice and consent of the senate. The first member appointed by the governor shall replace the commissioner of education for a term beginning August 28, 1998. The other two members shall be appointed by the governor at the time each member's, who was appointed by the state board of education, term expires.

3. Trustees appointed and elected shall be chosen for terms of four years from the first day of July next following their appointment or election, except that one of the elected trustees shall be a member of the **[**nonteacher school**] public education** employee retirement system and shall be initially elected for a term of three years from July 1, 1991. The initial term of one other elected trustee shall commence on July 1, 1992.

4. Trustees appointed by the governor shall be residents of school districts included in the retirement system, but not employees of such districts or a state employee or a state elected official. At least one trustee so appointed shall be a retired member of the public school retirement system or the **[**nonteacher school**] public education** employee retirement system. Three elected trustees shall be members of the public school retirement system and one elected trustee shall be a member of the **[**nonteacher school**] public education** employee retirement system.

5. The elections of the trustees shall be arranged for, managed and conducted by the board of trustees of the retirement system.

6. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

7. Trustees of the retirement system shall serve without compensation but they shall be reimbursed for expenses necessarily incurred through service on the board of trustees.

8. Each trustee shall be commissioned by the governor, and before entering upon the duties of the trustee's office, shall take and subscribe to an oath or affirmation to support the Constitution of the United States, and of the state of Missouri and to demean himself or herself faithfully in the trustee's office. Such oath as subscribed to shall be filed in the office of secretary of state of this state.

9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be necessary for a decision by the trustees at any meeting of the board of trustees. Unless otherwise expressly provided herein, a meeting need not be called or held to make any decision on a matter before the board. Each member must be sent by the executive director a copy of the matter to be decided with full information from the files of the board of trustees. The unanimous decision of four trustees may decide the issue by signing a document declaring their decision and sending such written instrument to the executive director of the board, provided that no other member of the board of trustees shall send a dissenting decision to the executive director of the board within fifteen days after such document and information was mailed to the trustee. If any member is not in agreement with four members the matter is to be passed on at a regular board meeting or a special meeting called for the purpose.

10. The board of trustees shall elect one of their number as chairman, and shall employ a full-time executive director, not one of their number, who shall be the executive officer of the board. Other employees of the board shall be chosen only upon the recommendation of the executive director.

11. The board of trustees shall employ an actuary who shall be its technical advisor on matters regarding the operation of the retirement system, and shall perform such duties as are essential in connection therewith, including the recommendation for adoption by the board of mortality and other necessary tables, and the recommendation of the level rate of contributions required for operation of the system.

12. As soon as practicable after the establishment of the retirement system, and annually thereafter, the actuary shall make a valuation of the system's assets and liabilities on the basis of such tables as have been adopted.

13. At least once in the three-year period following the establishment of the retirement system, and in each five-year period thereafter, the board of trustees shall cause to be made an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the system, and shall make any changes in the mortality, service, and other tables then in use which the results of the investigation show to be necessary.

14. Subject to the limitations of sections 169.010 to 169.141 and 169.600 to 169.715, the board of trustees shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the retirement system.

15. The board of trustees shall determine and decide all questions of doubt as to what constitutes employment within the meaning of sections 169.010 to 169.141 and 169.600 to 169.715, the amount of benefits to be paid to members, retired members, beneficiaries and survivors and the amount of contributions to be paid by employer and employee. The executive director shall notify by **[**registered**]** **certified** mail both employer and member, retired member, beneficiary or survivor interested in such determination. Any member, retired member, beneficiary or survivor, district or employer adversely affected by such determination, at any time within thirty days after being notified of such determination, may appeal to the circuit court of Cole County. Such appeal shall be tried and determined anew in the circuit court and such court shall hear and consider any and all competent testimony relative to the issues in the case, which may be offered by either party thereto. The circuit court shall determine the rights of the parties under sections 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in section 536.150, RSMo, and the judgment or order of such circuit court shall be binding upon the parties and the board shall carry out such judgment or order unless an appeal is taken from such decision of the circuit court. Appeals may be had from the circuit court by the employer, member, retired member, beneficiary, survivor or the board, in the manner provided by the civil code.

16. The board of trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall prepare annually a comprehensive annual financial report, the financial section of which shall be prepared in accordance with applicable accounting standards and shall include the independent auditor's opinion letter. The report shall also include information on the actuarial status and the investments of the system. The reports shall be preserved by the executive director and made available for public inspection.

17. The board of trustees shall provide for the maintenance of an individual account with each member, setting forth such data as may be necessary for a ready determination of the member's earnings, contributions, and interest accumulations. It shall also collect and keep in convenient form such data as shall be necessary for the preparation of the required mortality and service tables and for the compilation of such other information as shall be required for the valuation of the system's assets and liabilities. All individually identifiable information pertaining to members, retirees, beneficiaries and survivors shall be confidential.

18. The board of trustees shall meet regularly at least twice each year, with the dates of such meetings to be designated in the rules and regulations adopted by the board. Such other meetings as are deemed necessary may be called by the chairman of the board or by any four members acting jointly.

19. The headquarters of the retirement system shall be in Jefferson City, where suitable office space, utilities and other services and equipment necessary for the operation of the system shall be provided by the board of trustees and all costs shall be paid from funds of the system. All suits in which the board of trustees, the board's members or employees or the retirement system established by sections 169.010 to 169.141 or 169.600 to 169.715 are parties shall be brought in Cole County.

20. The board may appoint an attorney or firm of attorneys to be the legal advisor to the board and to represent the board in legal proceedings, however, if the board does not make such an appointment, the attorney general shall be the legal advisor of the board of trustees, and shall represent the board in all legal proceedings.

21. The board of trustees shall arrange for adequate surety bonds covering the executive director. When approved by the board, such bonds shall be deposited in the office of the secretary of state of this state.

22. The board shall arrange for annual audits of the records and accounts of the system by a firm of certified public accountants, the state auditor shall review the audit of the records and accounts of the system at least once every three years and shall report the results to the board of trustees and the governor.

23. The board by its rules may establish an interest charge to be paid by the employer on any payments of contributions which are delinquent. The rate charged shall not exceed the actuarially assumed rate of return on invested funds of the pertinent system.

169.040. FUNDS OF RETIREMENT SYSTEM, HOW INVESTED — DELEGATION OF INVESTMENT AUTHORITY — INVESTMENTS, MANNER OF MAKING, FORM — DESIGNATED DEPOSITORY — ELECTRONIC FUNDS TRANSFER REQUIRED — CLOSED MEETINGS AUTHORIZED, WHEN. — 1. All funds arising from the operation of sections 169.010 to 169.141 shall belong to the retirement system herein created and shall be controlled by the board of trustees of that system which board shall provide for the collection of such funds, shall see that they are safely preserved, and shall permit their disbursement only for the purposes herein authorized. Such funds and all other funds received by the retirement system are declared and shall be deemed to be the moneys and funds of the retirement system and not revenue collected or moneys received by the state and shall not be commingled with state funds.

2. The board shall invest all funds under its control which are in excess of a safe operating balance. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688, RSMo. The board of trustees may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys of the system, and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

3. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the board of trustees may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties which are not available in registered form may be held in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the Uniform Commercial Code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with a central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by

bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

4. With appropriate safeguards against loss by the system in any contingency, the board may designate a bank or trust company to serve as a depository of system funds and intermediary in the investment of those funds and payment of system obligations.

5. All retirement allowances or other periodic payments paid by the board shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the board to be appropriate. Each recipient of retirement allowances or other periodic payments shall designate a financial institution or other authorized payment agent and provide the board information necessary for the recipient to receive electronic funds transfer payments through the institution or agent designated. This subsection shall apply to retirement allowances and other periodic payments first paid on or after January 1, 1998, and shall apply to all retirement allowances and other periodic payments on and after January 1, 1999.

6. The board of trustees may deliberate about, or make tentative or final decisions on, investments or other financial matters in a closed meeting under chapter 610, RSMo, if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of the retirement system that discloses deliberations about, or a tentative decision on, investments or other financial matters is not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

169.056. PRIVATE SCHOOL, DEFINED — MEMBERSHIP CREDIT FOR SERVICE IN PRIVATE SCHOOL, PURCHASE, PAYMENT, REQUIREMENTS. — 1. Members who have accrued at least one year of membership service credit for employment in a position covered by this retirement system and who have covered employment with this retirement system following the service for which credit is being purchased may purchase membership service credit under the circumstances, terms and conditions provided in this section. With respect to each such purchase authorized by this section the following provisions apply:

(1) The purchase shall be effected by the member paying to the retirement system the amount the member would have contributed and the amount the employer would have contributed had such member been an employee for the number of years for which the member is electing to purchase credit, and had the member's compensation during such period been the highest annual salary rate on record with the retirement system on the date of election to purchase credit. For purposes of this section, "annual salary rate" means the annual salary rate for full-time service for the position of employment. The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit**. Notwithstanding the provisions of this subsection, for all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June thirtieth of each year. In lieu of charging the member interest on such purchase of credit, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by June thirtieth of each year shall be recalculated on the following July first using the contribution rate in effect on that July first and the highest salary of record for the member as of that July first. For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one-time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form**

approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006. The retirement system reserves the right to limit the amount of credit purchased by the member in any year if the amounts paid by the member in that year would exceed any applicable contribution limits set forth in Section 415 of Title 26 of the United States Code;

(2) Membership service credit purchased pursuant to this section shall be deemed to be membership service in Missouri for purposes of subsection 7 of section 169.070;

(3) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance;

(4) Members may purchase membership service credit in increments of one-tenth of a year, and multiple elections to purchase may be made;

(5) Additional terms and conditions applicable to purchase made pursuant to this section including, but not limited to, minimum payments, payment schedules and provisions applicable when a member fails to complete payment may be set by rules of the board.

2. Membership service credit shall not be allowed pursuant to this section or sections 169.570 and 169.577 which exceeds in length the member's membership service credit for employment in a position covered by this system, and in no event may the member receive membership service credit with both this system and another public retirement system for the same service.

3. A member who was employed for at least twenty hours per week on a regular basis by a public school district, public junior college, public community college, public college, or public university, either inside or outside of this state, may elect to purchase equivalent membership service credit.

4. A member who has served in the armed forces of the United States of America and who was discharged or separated from the armed forces by other than a dishonorable discharge may elect to purchase membership service for the period of active duty service in the armed forces.

5. Any member granted unpaid maternity or paternity leave for a period, from a position covered by the retirement system, who returned to employment in such a position, may elect to purchase membership service credit for the period of leave.

6. Any member who is or was certified as a vocational-technical teacher on the basis of having a college degree or who was required to have a period of work experience of at least two years in the area of the subject being taught in order to qualify for such certification may, upon written application to the board, purchase equivalent membership service credit for such work experience which shall not exceed the two years necessary for certification if the work experience was in the area that the member taught or is teaching and was completed in two years.

7. Any member who had membership service credit with the **[**nonteacher school**] public education** employee retirement system of Missouri governed by sections 169.600 to 169.715 but which membership service credit was forfeited by withdrawal or refund may elect to purchase credit for such service. The **[**nonteacher school**] public education** employee retirement system of Missouri shall transfer to this system an amount equal to the employer contributions for the forfeited service being purchased, plus interest, which shall be applied to reduce the amount the member would otherwise pay for the purchase, provided that the amount transferred shall not exceed one-half of the purchase cost.

8. A member may elect to purchase membership service credit for service rendered while on leave from an employer, as defined in section 169.010, for a not-for-profit corporation or agency whose primary purpose is support of education or education research, if the member was employed by that organization to serve twenty or more hours per week on a regular basis.

9. A member who was employed by a private school, private junior college, private community college, private college, or private university, either inside or outside of this state, for

at least twenty hours per week on a regular basis, may elect to purchase equivalent membership service credit for such service rendered.

10. A member who was employed in nonfederal public employment for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

11. A member who, while eighteen years of age or older, was employed in a position covered by Social Security for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

169.070. RETIREMENT ALLOWANCES, HOW COMPUTED, ELECTION ALLOWED, TIME PERIOD — OPTIONS — EFFECT OF FEDERAL O.A.S.I. COVERAGE — COST-OF-LIVING ADJUSTMENT AUTHORIZED — LIMITATION OF BENEFITS — EMPLOYMENT OF SPECIAL CONSULTANT, COMPENSATION, MINIMUM BENEFITS. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years.

In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, 2008, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, 2008, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained age fifty-five;

(5) Between July 1, 1998, and July 1, 2008, two and three-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years, and the member has not attained age fifty-five;

(6) Between July 1, 1998, and July 1, 2008, two and twenty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years, and the member has not attained age fifty-five;

(7) Between July 1, 1998, and July 1, 2008, two and two-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years, and the member has not attained age fifty-five;

(8) Between July 1, 2001, and **[**June 30,**]** **July 1,** 2008, two and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is thirty-one years or more regardless of age.

2. In lieu of the retirement allowance provided in subsection 1 of this section, a member whose age is sixty years or more on September 28, 1975, may elect to have the member's retirement allowance calculated as a sum of the following items:

(1) Sixty cents plus one and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years;

(3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection for each month of attained age in excess of sixty years but not in excess of age sixty-five.

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's application for retirement to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the **[**reserve for**] total of** the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance**. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum**;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the **[**reserve**] total** of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. **If the total of the sixty payments**

paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated to receive the survivorship payments dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after acquiring twenty-five or more years of creditable service or after attaining the age of fifty-five years and acquiring five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's **[**primary**]** beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship benefits under option 2 or a payment of the accumulated contributions of the member. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section;

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the member's **[**primary**]** beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either a payment of the member's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the member's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section.

4. If the total of the retirement **or disability** allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the **(1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4**) estate of the individual**[**, if there be no beneficiary**] in that order of precedence**. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the **(1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4**) estate of the beneficiary**, in that order of precedence,** unless the retired individual designates a different recipient with the board at or after retirement.

5. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the member or**, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4)** to the estate of the member**[**, if there be no beneficiary**] in that order of precedence**; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the **(1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4)** estate of the beneficiary**, in that order of precedence**.

6. If a member ceases to be a public school employee as herein defined and certifies to the board of trustees that such cessation is permanent, or if the membership of the person is

otherwise terminated, the member shall be paid the member's accumulated contributions with interest.

7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

8. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member of the system for whom federal Old Age and Survivors Insurance tax is paid from state or local tax funds on account of the member's employment entitling the person to membership in the system. The monetary benefits for a member who elected not to exercise an option to pay into the system a retroactive contribution of four percent on that part of the member's annual salary rate which was in excess of four thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each year of employment in a position covered by this system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of this section as it appears in RSMo, 1969, shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except that if the member has at least thirty years of creditable service at retirement the member shall receive the benefit payable pursuant to that section as though the member's age were sixty-five at retirement;

(4) For years of membership service after July 1, 1961, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

10. The monetary benefits for each other member for whom federal Old Age and Survivors Insurance tax is or was paid at any time from state or local funds on account of the member's employment entitling the member to membership in the system shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

11. Any retired member of the system who was retired prior to September 1, 1972, or beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement

allowance of the member of two percent for each year, or major fraction of more than one-half of a year, which the retired member has been retired prior to July 1, 1975. This increased amount shall be payable commencing with January, 1976, and shall thereafter be referred to as the member's retirement allowance. The increase provided for in this subsection shall not affect the retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor shall the amount being paid pursuant to these sections be reduced because of any increases provided for in this section.

12. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

13. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 12 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; except that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1976.

14. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

15. Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

16. Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided pursuant to this subsection. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

17. Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

(1) Thirty or more years of service, one thousand two hundred dollars;

(2) At least twenty-five years but less than thirty years, one thousand dollars;

(3) At least twenty years but less than twenty-five years, eight hundred dollars;

(4) At least fifteen years but less than twenty years, six hundred dollars.

18. Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. The total compensation provided by this section including the compensation provided by this subsection shall be used in calculating any future cost-of-living adjustments provided by subsection 12 of this section.

19. Any member who has retired prior to July 1, 1998, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive a payment equivalent to eight and seven-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

20. Any member who has retired shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such request. As compensation for such duties, the **[**person**] beneficiary of the retired member, or, if there is no beneficiary, the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the retired member, in that order of precedence,** shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

21. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to five dollars times the member's number of years of creditable service.

22. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a payment equivalent to three and five-tenths percent of the previous month's benefit, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

23. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

169.073. PARTIAL LUMP SUM DISTRIBUTION, WHEN — OPTIONS — CALCULATION FOR CHANGES IN DISTRIBUTION AMOUNT — DEATH, EFFECT OF. — 1. Any member eligible for a retirement allowance pursuant to section 169.070 and who has not previously received a retirement allowance, **including an allowance under disability retirement under section 169.070,** and whose sum of age and creditable service equals eighty-six years or more or whose creditable service is thirty-three years or more or whose age is sixty-three years or more and who has eight years or more of creditable service may elect a distribution under the partial lump sum option plan provided in this section if the member notifies the retirement system on the application for retirement.

2. A member entitled to make an election pursuant to this section may elect to receive a lump sum distribution in addition to the member's monthly retirement allowance pursuant to section 169.070, as reduced pursuant to this section. Such member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options:

(1) A lump sum amount equal to twelve times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070;

(2) A lump sum amount equal to twenty-four times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070; or

(3) A lump sum amount equal to thirty-six times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070.

3. When a member makes an election to receive a lump sum distribution pursuant to this section, the retirement allowance that the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution and the reduced retirement allowance shall be the member's retirement allowance thereafter for all purposes in relation to retirement allowance amounts pursuant to section 169.070. A retirement allowance increased due to the death of a person nominated by

the member to receive benefits pursuant to the provisions of option 2, 3, or 4 of subsection 3 of section 169.070 shall be increased pursuant to such provisions to the amount the retired member would be receiving had the retired member elected option 1 as actuarially reduced due to the lump sum distribution made pursuant to this section. Any payment of accumulated contributions pursuant to the provisions of sections 169.010 to 169.141 shall be reduced by the amount of any lump sum distribution made pursuant to this section in addition to any other reductions required by sections 169.010 to 169.141.

4. If the member dies before receiving a lump sum distribution pursuant to this section, the lump sum distribution shall be paid in accordance with rules adopted by the board of trustees.

5. Benefits paid pursuant to this section, in addition to all other provisions of the public school retirement system of Missouri, shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided in subsection 16 of section 169.070.

169.075. SURVIVORS' BENEFITS, OPTIONS — PURCHASE OF PRIOR SERVICE CREDITS FOR PREVIOUS SERVICE IN ANOTHER MISSOURI PUBLIC SCHOOL RETIREMENT SYSTEM, COST — MONTHLY RETIREMENT ALLOWANCE — SPECIAL CONSULTANT QUALIFICATION, COMPENSATION, DUTIES — DEATH PRIOR TO RECEIPT OF TOTAL ACCUMULATED BENEFITS, EFFECT OF. — 1. Certain survivors specified in this section and meeting the requirements of this section may elect to forfeit any payments payable pursuant to subsection 3 or 5 of section 169.070 and to receive certain other benefits described in this section upon the death of a member prior to retirement, except retirement with disability benefits, whose period of creditable service in districts included in the retirement system is **(1) five years or more, or (2)** two years **[**or more**] but less than five years** and who dies (a) while teaching in a district included in the retirement system, or (b) as a result of an injury or sickness incurred while teaching in such a district and within one year of the commencement of such injury or sickness, or (c) while eligible for a disability retirement allowance hereunder.

2. Upon an election pursuant to subsection 1 of this section, a surviving spouse sixty years of age, or upon attainment of age sixty, or a surviving spouse who has been totally and permanently disabled for not less than five years immediately preceding the death of a member if designated as the sole beneficiary, and if married to the member at least three years, and if living with such member at the time of the member's death, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death or recovery prior to age sixty from the disability which qualified the spouse for the benefit, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. A surviving spouse, who is eligible for benefits pursuant to this subsection and also pursuant to subsection 3 of this section may receive benefits only pursuant to subsection 3 of this section as long as the surviving spouse remains eligible pursuant to both subsections, but shall not be disqualified for the benefit provided in this subsection because the surviving spouse may have received payments pursuant to subsection 3 of this section. Beginning August 28, 2001, a surviving spouse who otherwise meets the requirements of this subsection but who remarried prior to August 28, 1995, shall be entitled, upon an election pursuant to subsection 1 of this section, to any remaining benefits that would otherwise have been received had the surviving spouse not remarried before the change in law permitting remarried surviving spouses to continue receiving benefits. Such surviving spouses may, upon application, become special consultants whose benefit will be to receive the remaining benefits described in this subsection. No benefit shall be paid to such surviving spouse unless he or she files a valid application for such benefit with the retirement system postmarked on or before June 30, 2002. In no event shall any retroactive benefits be paid.

3. Upon an election pursuant to subsection 1 of this section, a surviving spouse, if designated as the sole beneficiary, who has in the surviving spouse's care a dependent unmarried

child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until the surviving spouse's death, or the first date when no such dependent unmarried child under age eighteen, or age twenty-four if the child is enrolled in school on a full-time basis, remains in the surviving spouse's care, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. In addition the surviving spouse shall be entitled to a monthly payment equal to one-half this amount, provided that the monthly payment shall not be less than three hundred dollars, for each such dependent unmarried child under eighteen years of age, or age twenty-four if the child is enrolled in school on a full-time basis, who remains in the surviving spouse's care. Further, in addition to the monthly payment to the surviving spouse as provided for in this subsection, each dependent unmarried child under the age of eighteen years of the deceased member not in the care of such surviving spouse shall be entitled to a monthly payment equal to one-half of the surviving spouse's monthly payment which shall be paid to the child's primary custodial parent or legal guardian; provided that the payment because of an unmarried dependent child shall be made until the child attains age twenty-four if the child is enrolled in school on a full-time basis; provided, however, that the total of all monthly payments to the surviving spouse, primary custodial parent or legal guardian, including payments for such dependent unmarried children, shall in no event exceed two thousand one hundred sixty dollars, the amount of the children's share to be allocated equally as to each dependent unmarried child eligible to receive payments pursuant to this subsection.

4. Upon an election pursuant to subsection 1 of this section if the designated beneficiary is a dependent unmarried child as defined in this section or automatically upon the death of a surviving spouse receiving benefits pursuant to subsection 3 of this section, each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age twenty-four if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age twenty-four if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all monthly payments to the surviving dependent unmarried children shall in no event exceed two thousand one hundred sixty dollars.

5. **In lieu of receiving any benefit or lump sum from the retirement system, the designated beneficiary may elect under subsection 1 of this section to direct that each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age twenty-four if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age twenty-four if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen**

because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all monthly payments to the surviving dependent unmarried children shall in no event exceed two thousand one hundred sixty dollars.

6. Upon an election pursuant to subsection 1 of this section, a surviving dependent parent of the deceased member, over sixty-five years of age or upon attainment of age sixty-five if designated as the sole beneficiary, provided such dependent parent was receiving at least one-half of the parent's support from such member at the time of the member's death and provided the parent files proof of such support within two years of such death, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year as a teacher in a district included in the retirement system until death; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars. If the other parent also is a dependent, as defined in this section, the same amount shall be paid to each until death.

[6.**] 7.** All else in this section to the contrary notwithstanding, a survivor may not be eligible to benefit pursuant to this section because of more than one terminated membership, and be it further provided that the board of trustees shall determine and decide all questions of doubt as to what constitutes dependency within the meaning of this section.

[7.**] 8.** The provisions added to subsection 3 of this section in 1991 are intended to clarify the scope and meaning of this section as originally enacted and shall be applied in all cases in which such an election has occurred or will occur.

[8.**] 9.** After July 1, 2000, all benefits payable pursuant to subsections 1 to 7 of this section shall be payable to eligible current and future survivor beneficiaries in accordance with this section.

[9.**] 10.** The system shall pay a monthly retirement allowance for the month in which a retired member, beneficiary or survivor receiving a retirement allowance or survivor benefit dies.

11. If the total of all payments made under this section is less than the total of the member's accumulated contributions, the difference shall be paid to the person making the election under subsection 1 of this section. If such person does not survive until all payments are made under this section, such difference shall be paid in accordance with section 169.076.

169.076. DEATH WITHOUT A VALID DESIGNATED BENEFICIARY, EFFECT OF — MOST RECENT VALID DESIGNATION OF BENEFICIARY REVOKES PREVIOUS DESIGNATIONS. — 1. If a member dies before service retirement and is not survived by a beneficiary under a valid beneficiary designation filed with the retirement system or all designated beneficiaries have disclaimed the right to receive benefits from the retirement system, the following individuals shall be deemed to be the member's designated beneficiaries, in the following order of precedence, for the purpose of making an election and receiving benefits under paragraph (a) or (b) of subdivision (2) of subsection 3 of section 169.070 or section 169.075:

(1) Surviving spouse at the time of the member's death;

(2) Surviving children eligible to receive benefits under section 169.075 at the time of the member's death, share and share alike;

(3) Surviving children not eligible to receive benefits under section 169.075 at the time of the member's death, share and share alike;

(4) Surviving dependent parents eligible for a benefit under section 169.075 at the time of the member's death, share and share alike;

(5) Surviving parents, share and share alike;

(6) Estate.

2. The member's most recent valid designation of a beneficiary received by the retirement system prior to the member's death revokes all previous designations in their entirety. The member's marriage, divorce, withdrawal of accumulated contributions, or the birth of the member's child, or the member's adoption of a child, shall result in an automatic revocation of the member's previous designation in its entirety upon the retirement system receiving actual notice of such event before or after the member's death and prior to any payments being made under the provisions of this chapter. This section applies to all beneficiary designations filed with the retirement system before or after the enactment of this section under which payments have not been made under this chapter. This section shall not apply to the member's designation of a beneficiary to receive a monthly benefit upon the death of the member under subdivision (1) of subsection 3 of section 169.070.

169.140. JUNIOR COLLEGE, PUBLIC, FULL-TIME EMPLOYEE MAY BE MEMBER OF RETIREMENT SYSTEM, EXCEPTION. — Any person employed in a public junior college upon a full-time basis and who shall be duly certificated under the law governing the certification of teachers, or any person employed in said public junior college in a full-time teaching, supervisory or educational administrative position certified by the executive officer of the institution for such full-time duties shall be a member of the public school retirement system of Missouri; except that, if the employee is a member of the **[**nonteacher school**]** **public education** employees' retirement system at the time such employment would qualify him for membership under this section, he may elect to continue in that system if he makes the election to continue at the time he becomes eligible for membership in the public school retirement system.

169.560. RETIREES MAY BE EMPLOYED FOR LIMITED TIME — SALARY AMOUNT, EFFECT ON BENEFITS. — Any person retired and currently receiving a retirement allowance pursuant to sections 169.010 to 169.141, other than for disability, may be employed in any capacity in a district included in the retirement system created by those sections on either a part-time or temporary-substitute basis not to exceed a total of five hundred fifty hours in any one school year, and through such employment may earn up to fifty percent of the annual compensation payable under the employing district's salary schedule for the position or positions filled by the retiree, given such person's level of experience and education, without a discontinuance of the person's retirement allowance. If the employing school district does not utilize a salary schedule, or if the position in question is not subject to the employing district's salary schedule, a retiree employed in accordance with the provisions of this section may earn up to fifty percent of the annual compensation paid to the person or persons who last held such position or positions. If the position or positions did not previously exist, the compensation limit shall be determined in accordance with rules duly adopted by the board of trustees of the retirement system; provided that, it shall not exceed fifty percent of the annual compensation payable for the position in the employing school district that is most comparable to the position filled by the retiree. In any case where a retiree fills more than one position during the school year, the fifty-percent limit on permitted earning shall be based solely on the annual compensation of the highest paid position occupied by the retiree for at least one-fifth of the total hours worked during the year. Such a person shall not contribute to the retirement system or to the **[**nonteacher school**]** **public education** employee retirement system established by sections 169.600 to 169.715 because of earnings during such period of employment. If such a person is employed in any capacity by such a district on a regular, full-time basis, the person shall not be eligible to receive the person's retirement allowance for any month during which the person is so employed and shall contribute to the retirement system.

169.561. RETIREES RETURN TO WORK CONSIDERED NEW MEMBERSHIP IN APPLICABLE RETIREMENT SYSTEM — VESTING PERIOD, CONTRIBUTIONS, SERVICE CREDIT —

TERMINATION, WITHDRAWAL OF CONTRIBUTIONS, WHEN. — Any person retired and currently receiving a retirement allowance from either the public school retirement system of Missouri or the **[**nonteacher school**] public education** employee retirement system of Missouri, other than for disability, who elects to return to work in an employment capacity covered by either of the aforementioned retirement systems shall undertake such service under a new membership in the applicable system. The new membership for such a person shall have a vesting period of one year of creditable service, after which the person shall be eligible to retire and receive a second or subsequent retirement allowance for the service credit earned under the new membership in accordance with the law governing such matters. Contributions shall be made to the retirement system for any covered employment under the new membership at the same time and in the same manner as contributions are made for covered employment generally. Service credit shall be earned or may be acquired under the new membership in accordance with the law governing such matters. A second or subsequent membership or retirement allowance established or earned pursuant to this section shall be separate from and shall not be combined with any previous membership service credit or retirement allowance earned from the aforementioned retirement systems. Upon termination of covered employment under a second or subsequent membership, and in lieu of application for and receipt of a retirement allowance based on such service, the person may withdraw from the retirement system and receive a refund of the person's contributions during such membership in accordance with the law governing such matters; provided that, by so doing, the person shall forfeit any creditable service the person may have accrued under that membership. A person shall not receive a retirement allowance from the aforementioned retirement systems for any previous membership service while in covered employment under a new membership established pursuant to this section, nor shall a person receive such a retirement allowance in any month in which the person earns service credit under the new membership.

169.569. JOINT RULES PROMULGATED, PROCEDURE. — 1. In accordance with the recommendations made pursuant to section 169.566, the public school retirement system of Missouri, the public school retirement system of the Kansas City school district, the public school retirement system of the St. Louis City school district and the **[**nonteacher school**] public education** employee retirement system of Missouri created pursuant to this chapter shall promulgate joint rules, which shall provide for the recognition of service toward retirement eligibility rendered by certified and noncertified personnel under any of the four systems. Such rules shall be limited to creditable service established with each system and shall in no event permit any transfer of creditable service or system assets.

2. Rules required pursuant to subsection 1 of this section shall be approved, and may be amended, by a majority of all of the trustees of each board of the four retirement systems. At least thirty days prior to the meeting of any board of one of the four retirement systems to vote on approving or amending such rules, a copy of the proposed rules or amendments shall be filed with the joint committee on public employee retirement.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

169.600. DEFINITIONS. — As used in sections 169.600 to 169.710, unless the context clearly requires otherwise, the following words and phrases mean:

(1) "Accumulated contributions", the sum of the annual contributions a member has made to the retirement system through deductions from the member's salary, plus interest compounded annually on each year's contributions from the end of the school year during which such contributions were made;

(2) "Average compensation", as used in subdivision (3) of subsection 1 of section 169.670, shall be the total compensation paid to a member for any ten consecutive years of creditable service, or for the entire period of creditable service if less than ten years, prior to July 1, 1973, divided by one hundred twenty or by the number of months in the member's period of creditable service if less than ten years; provided, that in determining the total compensation, any annual compensation entering into the total shall not be less than one thousand two hundred dollars and shall not exceed ten thousand dollars;

(3) "Board", the board of trustees provided for in section 169.020;

(4) "Creditable service", prior service or membership service or the sum of the two if the member has both to the member's credit;

(5) "Employee", any person regularly employed by a public school district, junior college district or by the board of trustees, as defined in sections 169.600 to 169.710, who devotes at least twenty hours per week to such employment in a position which is not covered by the public school retirement system of Missouri; provided, however, that no person shall be required to contribute to, or shall receive benefits from both the retirement system herein established and the public school retirement system of Missouri for the same services;

(6) "Employer", the district or other employer that makes payment directly to the employee for the employee's services;

(7) "Final average salary", the total compensation paid to a member for any three consecutive years of creditable service divided by thirty-six; provided, that in determining the total compensation, any annual compensation less than one thousand two hundred dollars shall be regarded as one thousand two hundred dollars and an annual compensation for services prior to July 1, 1973, in excess of ten thousand dollars shall be regarded as ten thousand dollars; and provided, that the board may set a maximum percentage of increase in annual compensation from one year to the next in the final average salary period;

(8) "Junior college district", any public junior college district organized and operated pursuant to the provisions of sections 178.770 to 178.890, RSMo, which enters into an agreement with the board of trustees of the retirement system to include its eligible employees in the system immediately upon the effective date of the agreement;

(9) "Member", a person who holds membership in the retirement system;

(10) "Membership service", service rendered by a member of the system after the system becomes operative;

(11) "Prior service", service rendered by a member of the retirement system before the system becomes operative and may include service as a teacher for which credit has not been claimed from the public school retirement system of Missouri;

(12) "Public school district" or "district", any duly constituted public school district under the authority and supervision of a duly elected district or city or town board of directors or board of education, except those school districts defined in sections 169.270 and 169.410;

(13) "Retirement allowance", a monthly payment for life, during retirement;

(14) "Retirement system" or "system", the **[**nonteacher school**] public education** employee retirement system of Missouri created by sections 169.600 to 169.710;

(15) "Salary", "salary rate" or "compensation" shall mean the regular remuneration which is earned by a member as an employee of a district, but not including employer-paid fringe benefits except the value of employer-paid medical benefits (including dental and vision) for members, and not including **employer-paid medical benefits (including dental and vision) for anyone other than the member, employer contributions to a deferred compensation plan,** consideration for agreeing to **[**retire**] terminate employment** or other nonrecurring or unusual payments that are not a part of regular remuneration. The board by its rules may further

define salary, salary rate and compensation in a manner consistent with this definition and with sections 169.600 to 169.715;

(16) "School year", the year from July first of one year to June thirtieth of the next year, inclusive, which shall also be the fiscal year of the system.

169.610. SYSTEM ESTABLISHED — BOARD OF TRUSTEES TO ADMINISTER — FUNDS TO BE KEPT SEPARATE. — 1. There is hereby created and established a retirement system for nonteacher employees of all public school districts, as defined in sections 169.600 to 169.710, which shall be a body corporate and which shall be known as "The **[**Nonteacher School**] Public Education** Employee Retirement System of Missouri". The system shall, by and in its name, sue and be sued, transact all its business, invest all of its funds, and hold all its cash, securities and other property. The system hereby established shall begin operations on the first day of November, 1965.

2. The general administration of and the responsibility for the proper operation of this retirement system and for making effective the provisions of sections 169.600 to 169.710, is hereby vested in the board of trustees for the public school retirement system as established by section 169.020.

3. Said board shall keep all funds belonging to this system separate and apart from all other funds, but shall manage and administer this system in all other respects as prescribed by section 169.020.

169.620. CONTRIBUTIONS BY MEMBERS AND EMPLOYERS — RATE — PENALTY FOR FAILURE TO REMIT — BENEFITS TO BE REDUCED, WHEN — PURCHASE OF SERVICE CREDIT, CERTAIN MEMBERS, HOW. — 1. The funds required for the operation of the retirement system created by sections 169.600 to 169.715 shall come from contributions made in equal amounts by employees as herein defined and their employers, beginning November 1, 1965, and from such interest or income as may be derived from the investment of funds of the system. All contributions shall be transmitted to the board of trustees by employers in such manner and at such times as the board by rule shall require.

2. For each school year following the date on which the system becomes operative, each and every employer of one or more persons who are members of the system shall transmit to the board of trustees, in the manner and accompanied by such supporting data as the board shall prescribe, twice the amount that is deductible from the pay of such employee or employees during the school year. Failure or refusal to transmit such amount as required shall render the person or persons responsible therefor individually liable for twice the amount so withheld. Suits for the recovery of amounts for which individuals are thus rendered liable shall be instituted and prosecuted by the board of trustees in the name of the retirement system. In addition to such civil penalty, and not in lieu thereof, any person or persons made responsible for the remittance of contributions who shall willfully and knowingly fail or refuse to transmit such contributions or any part thereof to the board of trustees shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars and not more than two hundred dollars. Each day such person or persons shall so fail or refuse to transmit such contributions shall be deemed a separate offense. The board of trustees may request the employer to provide the information necessary to administer the system and to advise each member of such member's status.

3. The contributions of members of the retirement system shall be collected by their employers through appropriate deductions from paychecks. The total amount deducted from the paychecks of members during any school year shall equal such a percent of their salary rates as may be required by the contribution rate then in effect. For contribution purposes any annual salary rate less than one thousand two hundred dollars shall be regarded as one thousand two hundred dollars. Contributions transmitted to the retirement system before February 20, 1996, based on salary rates which either included or excluded employer-paid medical benefits for

members, shall be deemed to have been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period before February 20, 1996, solely because of the treatment of employer-paid medical benefits for members. Effective December 31, 1995, compensation in excess of the limitations set forth in Section 401(a)(17) of Title 26 of the United States Code shall be disregarded for purposes of determining contributions pursuant to this section and calculating benefits paid by the **[**nonteacher school**]** **public education** employee retirement system of Missouri. 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 the purpose of this subsection, an "eligible employee" is an individual who was a member of the system before July 1, 1996.

4. The board of trustees shall fix and certify to the employers the level rate of contribution subject to the following:

(1) The level rate of contribution for a fiscal year shall not exceed the level rate of contribution for the prior fiscal year by more than one-quarter percent;

(2) The board shall fix and certify to the employers the rate of contribution for a fiscal year no later than six months prior to the date such rate is to be effective;

(3) The board shall fix and certify to the employers the rate of contribution for a fiscal year based on an actuarial valuation of the system as of a date not earlier than the last day of the second prior fiscal year. Such actuarial valuation of the system shall be performed using processes and actuarial assumptions that are in accordance with actuarial standards of practice in effect at the time the valuation is performed, as promulgated by the actuarial standards board or its successor; provided that such actuarial valuation shall be based on the entry age normal actuarial cost method and an asset valuation method based on the market value of system assets that may provide for smoothing of investment gains and losses, and further, that the level rate of contribution shall be the total of the normal cost and a rate which shall amortize the unfunded actuarial accrued liability over a period that shall not exceed thirty years from the date of the valuation, subject to the limitations of this subsection; and

(4) Not less than once every ten years the board shall have an actuary, other than the actuary performing the actuarial valuation pursuant to this section, review such actuarial valuation and perform an additional actuarial valuation of the system.

5. Regardless of the provisions of any law governing compensation and contracts, every employee shall be deemed to consent and agree to the deductions provided herein. Payment of salary or compensation less such deduction shall be a full and complete discharge of all salary or compensation claims and demands during the period covered by such payment, except as to the benefits provided pursuant to sections 169.600 to 169.715.

6. A person serving as an employee as defined in section 169.600, who became a member after November 1, 1965, and before July 1, 1974, and who was regularly employed to serve for twenty or more hours per week at some time during the period November 1, 1965, to July 1, 1974, may receive membership service credit for such service by paying into the system the amount, with interest at such rate as may be set by the board within the limits set by law for interest rates, the person would have contributed had the person been eligible for membership.

7. Notwithstanding any other provision of sections 169.600 to 169.715 to the contrary, no legislation shall be enacted after July 1, 2003, that increases benefits provided to members or retirees of the **[**nonteacher school**]** **public education** employee retirement system of Missouri above that which may be funded using a rate of contribution of five percent as determined using an actuarial valuation as provided in subsection 4 of this section; provided that, notwithstanding the provisions of this subsection, legislation may be enacted after July 1, 2003, that provides for an extension of time within which a member may make an election pursuant to subdivision (4) of subsection 1 of section 169.670.

169.630. FUNDS OF SYSTEM, HOW INVESTED, HOW ACCOUNTED FOR — BANK OR TRUST COMPANY TO SERVE AS DEPOSITORY AND INTERMEDIARY IN INVESTMENT OF FUNDS — TITLE TO SECURITIES, FORM — ELECTRONIC FUNDS TRANSFER — CLOSED MEETINGS AUTHORIZED, WHEN. — 1. All funds arising from the operation of sections 169.600 to 169.715 shall belong to the retirement system created in sections 169.600 to 169.715 and shall be controlled by the board of trustees and that board shall provide for the collection of these funds, see that they are safely preserved, and shall permit their disbursement only for the purposes authorized in sections 169.600 to 169.715. These funds are declared and shall be deemed to be the moneys and funds of this retirement system and not general funds of the state and shall not be commingled with any state funds or other retirement funds. Solely for the purpose of investing the funds of the retirement system, the funds may be combined with the funds of the public school retirement system of Missouri, but the funds of each system shall be accounted for separately and for all other purposes shall be separate.

2. The board shall invest all funds under its control which are in excess of a safe operating balance. The investment shall be made only in securities authorized and pursuant to the same standards set for investment by section 169.040.

3. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the board of trustees may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties which are not available in registered form may be held in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the Uniform Commercial Code, sections 400.8-102 and 400.8-108, RSMo. When such eligible securities of the retirement system are so deposited with a central depository system, the securities may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

4. With appropriate safeguards against loss by the system in any contingency, the board may designate a bank or trust company to serve as a depository of system funds and intermediary in the investment of those funds and payment of system obligations.

5. All retirement allowances or other periodic payments paid by the board shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the board to be appropriate. Each recipient of retirement allowances or other periodic payments shall designate a financial institution or other authorized payment agent and provide the board information necessary for the recipient to receive electronic funds transfer payments through the institution or agent designated. This subsection shall apply to retirement allowances and other periodic payments first paid on or after January 1, 1998, and shall apply to all retirement allowances and other periodic payments on and after January 1, 1999.

6. The board of trustees may deliberate about, or make tentative or final decisions on, investments or other financial matters in a closed meeting under chapter 610, RSMo, if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of the retirement system that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

169.650. MEMBERSHIP — PRIOR SERVICE CREDIT — REINSTATEMENT — PROCEDURE. — 1. On and after October 13, 1965, all employees as defined in section 169.600 of districts included in this retirement system shall be members of the system by virtue of their employment, and all persons who had five years of prior service who were employees of districts included in sections 169.600 to 169.710 during the school year next preceding October 13, 1965, but who ceased to be employees prior to October 13, 1965, because of physical disability, shall be members of this system by virtue of that prior service. Individuals who qualify as independent contractors under the common law and are treated as such by their employer shall not be considered employees for purposes of membership in or contributions to the retirement system.

2. Any member who rendered service prior to November 1, 1965, as an employee as defined in section 169.600 in a district or junior college district included in the system may claim credit for that service by filing with the board of trustees a complete and detailed record of the service for which the credit is claimed, together with such supporting evidence as the board may require for verification of the record. To the extent that the board finds the record correct, it shall credit the claimant with prior service and shall notify the claimant of its decision.

3. Membership shall be terminated by failure of a member to earn any membership service credit as a public school employee under this system for five consecutive school years, by death, withdrawal of contributions, or retirement.

4. If a member withdraws or is refunded the member's contributions, the member shall thereby forfeit any creditable service the member may have; provided, however, if such person again becomes a member of the system, the member may elect prior to retirement to reinstate any creditable service forfeited at the times of previous withdrawals or refunds. The reinstatement shall be effected by the member paying to the retirement system, with interest, the amount of accumulated contributions withdrawn by the member or refunded to the member with respect to the service being reinstated. A member may reinstate less than the total service previously forfeited, in accordance with rules promulgated by the board of trustees. The payment shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance; provided, however, that if a member is retired on disability before completing such payments, the balance due, with interest, shall be deducted from the member's disability retirement allowance.

5. Any person who is an employee of any statewide nonprofit educational association or organization serving the active membership of the **[**nonteacher school**]** **public education** employee retirement system of Missouri and who works at least twenty hours per week on a regular basis in a position which is not covered by the public school retirement system of Missouri may be a member of the **[**nonteacher school**]** **public education** employee retirement system of Missouri. Certificated employees of such statewide nonprofit educational association or organization may not be members of the public school retirement system of Missouri unless such association or organization makes separate application pursuant to subsection 4 of section 169.130. The contributions required to be made by the employee will be deducted from salary and matched by the association or organization.

169.655. PURCHASE OF MEMBERSHIP CREDIT FOR SERVICE TO ORGANIZATION SUPPORTING EDUCATION OR RESEARCH — LIMITATIONS, REQUIREMENTS — TRANSFER OF FUNDS. — 1. Members who have accrued at least one year of membership service credit for employment in a position covered by this retirement system and who have covered employment with this retirement system following the service for which credit is being purchased may purchase membership service credit under the circumstances, terms and conditions provided in this section. With respect to each such purchase authorized by this section the following provisions apply:

(1) The purchase shall be effected by the member paying to the retirement system the amount the member would have contributed and the amount the employer would have contributed had such member been an employee for the number of years for which the member

is electing to purchase credit, and had the member's compensation during such period been the highest annual salary rate on record with the retirement system on the date of election to purchase credit. The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit**. Notwithstanding the provisions of this subsection, for all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June thirtieth of each year. In lieu of charging the member interest on such purchase of credit, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by June thirtieth of each year shall be recalculated on the following July first using the contribution rate in effect on that July first and the highest salary of record for the member as of that July first. For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one-time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006. The retirement system reserves the right to limit the amount of credit purchased by the member in any year if the amounts paid by the member in that year would exceed any applicable contribution limits set forth in Section 415 of Title 26 of the United States Code**;

(2) Membership service credit purchased pursuant to this section shall be deemed to be membership service as defined in subdivision (10) of section 169.600;

(3) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance;

(4) Members may purchase membership service credit in increments of one-tenth of a year, and multiple elections to purchase may be made;

(5) Additional terms and conditions applicable to purchases made pursuant to this section including, but not limited to, minimum payments, payment schedules and provisions applicable when a member fails to complete payment may be set by rules of the board.

2. Membership service credit shall not be allowed pursuant to this section or sections 169.570 and 169.577 which exceeds in length the member's membership service credit for employment in a position covered by this system, and in no event may the member receive membership service credit with both this system and another public retirement system for the same service.

3. A member who was employed for at least twenty hours per week on a regular basis by a public school district, public junior college, public community college, public college, or public university, either inside or outside of this state, may elect to purchase equivalent membership service credit.

4. A member who has served in the armed forces of the United States of America and who was discharged or separated from the armed forces by other than a dishonorable discharge may elect to purchase membership service credit for the period of active duty service in the armed forces.

5. Any member granted unpaid maternity or paternity leave for a period, from a position covered by the retirement system, who returned to employment in such a position, may elect to purchase membership service credit for the period of leave.

6. Any member who is or was certified as a vocational-technical teacher on the basis of having a college degree or who was required to have a period of work experience of at least two years in the area of the subject being taught in order to qualify for such certification may, upon

written application to the board, purchase equivalent membership service credit for such work experience which shall not exceed the two years necessary for certification if the work experience was in the area that the member taught or is teaching and was completed in two years.

7. Any member who had membership service credit with the public school retirement system of Missouri governed by sections 169.010 to 169.141 but which membership service credit was forfeited by withdrawal or refund may elect to purchase credit for such service. The public school retirement system of Missouri shall transfer to this system an amount equal to the employer contributions for the forfeited service being purchased, plus interest, which shall be applied to reduce the amount the member would otherwise pay for the purchase, provided that the amount transferred shall not exceed one-half of the purchase cost.

8. A member may elect to purchase membership service credit for service rendered while on leave from an employer, as defined in section 169.600, for a not-for-profit corporation or agency whose primary purpose is support of education or education research if the member was employed by that organization to serve twenty or more hours per week on a regular basis.

9. A member who was employed by a private school, private junior college, private community college, private college, or private university, either inside or outside of this state, for at least twenty or more hours per week on a regular basis, may elect to purchase membership service credit for such service rendered.

10. A member who was employed in nonfederal public employment for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

11. A member who, while eighteen years of age or older, was employed in a position covered by Social Security for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

169.670. BENEFITS, HOW COMPUTED — BENEFICIARY BENEFITS, OPTIONS, ELECTION OF. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and sixty-one hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit;

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, 2001, and July 1, 2008, a member may elect to receive a retirement allowance of:

(a) One and fifty-nine hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the age of fifty-five;

(b) One and fifty-seven hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and fifty-three hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and fifty-one hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five; and

(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more, shall receive a temporary retirement allowance equivalent to eight-tenths of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for Social Security retirement benefits.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is twenty-five years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance**. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum**;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance**. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum**;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after attaining age fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's **[**primary**]** beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section.

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person

named as the **[**primary**]** beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement **or disability** allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or **[**to the**], if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4)** person's estate **in that order of precedence**; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the **(1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4)** estate of the beneficiary**, in that order of precedence,** unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or**, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4)** to the member's estate**[**, if there be no beneficiary**]**; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the **(1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4)** estate of the beneficiary**, in that order of precedence**.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated

to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option, actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the **[**nonteacher school**]** **public education** employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code**, except as provided under this subsection. Notwithstanding any other law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the United States Code. Such plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan**.

14. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

15. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

16. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and one-tenth percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

169.673. PARTIAL LUMP SUM DISTRIBUTION, WHEN — CHANGES IN DISTRIBUTION AMOUNT, FORMULA — DEATH, EFFECT OF. — 1. Any member eligible for a retirement allowance pursuant to section 169.670 and who has not previously received a retirement allowance, including an allowance under disability retirement, pursuant to section 169.670, and whose sum of age and creditable service equals eighty-six years or more or whose creditable service is thirty-three years or more or whose age is sixty-three years or more and has eight years or more creditable service may elect a distribution under the partial lump sum option plan provided in this section if the member notifies the retirement system on the application for retirement of the member's effective date of retirement; provided that the partial lump sum option plan may not be elected if the member elects a retirement allowance under option 7 of subdivision (1) of subsection 4 of section 169.670.

2. A member entitled to make an election pursuant to this section may elect to receive a lump sum distribution in addition to the member's monthly retirement allowance payment pursuant to section 169.670 as reduced pursuant to this section. Such member may elect the

amount of the member's lump sum distribution from one, but not more than one, of the following options:

(1) A lump sum amount equal to twelve times the retirement allowance, less any temporary retirement allowance payable pursuant to subdivision (5) of subsection 1 of section 169.670, the member would receive if no election were made under this section and the member had chosen option 1 under section 169.670;

(2) A lump sum amount equal to twenty-four times the retirement allowance, less any temporary retirement allowance payable pursuant to subdivision (5) of subsection 1 of section 169.670, the member would receive if no election were made pursuant to this section and the member had chosen option 1 under section 169.670; or

(3) A lump sum amount equal to thirty-six times the retirement allowance, less any temporary retirement allowance payable pursuant to subdivision (5) of subsection 1 of section 169.670, the member would receive if no election were made pursuant to this section and the member had chosen option 1 under section 169.670.

3. When a member makes an election to receive a lump sum distribution pursuant to this section, the retirement allowance that the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution and the reduced retirement allowance shall be the member's retirement allowance thereafter for all purposes in relation to retirement allowance amounts pursuant to section 169.670. If eligible, the member may also receive a temporary benefit, pursuant to subdivision (5) of subsection 1 of section 169.670, for the period of time described therein. A retirement allowance increased due to the death of a person nominated by the member to receive benefits pursuant to the provisions of option 2, 3, or 4 of subsection 4 of section 169.670 shall be increased pursuant to such provisions to the amount the retired member would be receiving had the retired member elected option 1 as actuarially reduced due to the lump sum distribution made pursuant to this section. Any payment of accumulated contributions pursuant to the provisions of sections 169.600 to 169.715 shall be reduced by the amount of any lump sum distribution made pursuant to this section in addition to any other reductions required by sections 169.600 to 169.715.

4. If the member dies before receiving a lump-sum distribution under this section the lump-sum distribution shall be paid in accordance with rules adopted by the board of trustees.

5. Benefits paid pursuant to this section in addition to all other provisions of the **[**nonteacher school**]** **public education** employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided in subsection 13 of section 169.670.

169.676. DEATH WITHOUT A VALID BENEFICIARY DESIGNATION, EFFECT OF — MOST RECENT VALID DESIGNATION OF BENEFICIARY REVOKES PREVIOUS DESIGNATIONS. — 1. If a member dies before service retirement and is not survived by a beneficiary under a valid beneficiary designation filed with the retirement system or all designated beneficiaries have disclaimed the right to receive benefits from the retirement system, the following individuals shall be deemed to be the member's designated beneficiaries, in the following order of precedence, for the purpose of making an election and receiving benefits under paragraph (a) or (b) of subdivision (2) of subsection 4 of section 169.670:

(1) Surviving spouse at the time of the member's death;

(2) Surviving children, share and share alike;

(3) Surviving parents, share and share alike;

(4) Estate.

2. The member's most recent valid designation of a beneficiary received by the retirement system prior to the member's death revokes all previous designations in their entirety. The member's marriage, divorce, withdrawal of accumulated contributions, or the birth of the member's child, or the member's adoption of a child, shall result in an

automatic revocation of the member's previous designation in its entirety upon the retirement system receiving actual notice of such event before or after the member's death and prior to any payments being made under the provisions of this chapter. This section applies to all beneficiary designations filed with the retirement system before or after the enactment of this section under which payments have not been made under this chapter. This section shall not apply to the member's designation of a beneficiary to receive a monthly benefit upon the death of the member under subdivision (1) of subsection 4 of section 169.670.

169.712. TRANSFER TO PUBLIC SCHOOL RETIREMENT SYSTEM, CERTAIN PUBLIC EDUCATION 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**]** **public education** 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**]** **public education** employee retirement system. Any such person shall have the option of being a member of the **[**nonteacher school**]** **public education** 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**]** **public education** 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**]** **public education** 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**]** **public education** employee retirement system shall be subject to the provisions of section 169.655.

[169.555. RATE OF CONTRIBUTION TO RETIREMENT SYSTEMS, BOARD TO FIX AND CERTIFY. — Notwithstanding the provisions of section 169.030 and 169.620 to the contrary, the board of trustees shall have the authority to fix and certify to employers the level rate of contribution for a fiscal year no later than six months prior to the date such rate is to be effective, subject to the following:

(1) The level rate of contribution for the system created by sections 169.010 to 169.141 shall not exceed the level rate of contribution for the prior fiscal year by more than one-half percent;

(2) The level rate of contribution for the system created by sections 169.600 to 169.715 shall not exceed the level rate of contribution for the prior fiscal year by more than one-quarter percent;

(3) The contribution rate shall be based on an actuarial valuation as of a date not earlier than the last day of the second prior fiscal year. Such actuarial valuation shall be performed using processes and actuarial assumptions that are in accordance with the actuarial standards of practice in effect at the time the valuation is performed, as promulgated by the actuarial standards board or its successor; provided that such actuarial valuation shall be based on the entry age normal actuarial cost method and an asset valuation method based on the market value of system assets that may provide for smoothing of investment gains and losses, and further, that the level rate of contribution shall be the total of the normal cost and a rate which shall amortize the unfunded actuarial accrued liability over a period that shall not exceed thirty years from the date of the valuation, subject to the limitations of this subsection;

(4) Not less than once every ten years the board shall have an actuary, other than the actuary performing the actuarial valuation pursuant to this section, review such actuarial valuation and perform an additional actuarial valuation of the system;

(5) Notwithstanding the provisions of subdivisions (3) to (8) of subsection 1 of section 169.070 and subdivision (4) of subsection 1 of section 169.670 to the contrary, no legislation shall be enacted after July 1, 2003, that increases benefits provided to members or retirees of the systems created by sections 169.010 to 169.141 or 169.600 contribution rate in effect on July 1, 2003.**]**

Approved July 12, 2005

HB 445 [HB 445]

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

Allows municipalities to adopt by reference any state statute relating to vehicle equipment regulations

AN ACT to repeal section 71.943, RSMo, and to enact in lieu thereof one new section relating to codification of municipal ordinances.

SECTION

A. Enacting clause.

71.943. Codification of municipal ordinances, contents — supplements authorized — code to be evidence in all courts.

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

SECTION A. ENACTING CLAUSE. — Section 71.943, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 71.943, to read as follows:

71.943. CODIFICATION OF MUNICIPAL ORDINANCES, CONTENTS — SUPPLEMENTS AUTHORIZED — CODE TO BE EVIDENCE IN ALL COURTS. — The governing body of any municipality may from time to time provide for the compilation or revision and codification of the general ordinances of the municipality and the publication in book form of such compilation or codification, and may provide for keeping such compilation and codification up to date by supplements to permanently bound books or by insertions of amending or new ordinances in loose-leaf binders, and may provide for annual or occasional recodification of codifications housed in loose-leaf binders. The codification may contain citations to sections or previous ordinances retained or modified. All titles, effective date sections and signatures of ordinances

may be omitted. The codification may contain annotations to statutes, cross references and other matter that may make the code more useful. The codification may incorporate by reference standard or model codes or ordinances, state regulations and statutes as authorized by section 67.280, RSMo, sections 67.400 to 67.450, RSMo, and section 300.600, RSMo, and amendments to such statutes. **The codification may incorporate by reference state statutes relating to vehicle equipment regulations contained in chapter 307, RSMo, and amendments to such statutes.** The ordinance adopting the codification shall recite that the codification was authorized by ordinance, and that it was made in conformity with this section and amendments to this section. When the ordinance and the codification, along with a certificate of the municipal clerk that the same are true and correct copies, are published in book form, the codification shall take effect and shall import absolute verity and be received in evidence in all courts and places without further proof.

Approved July 6, 2005

HB 448 [HCS HB 448]

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 salary scale for police officers in the City of St. Louis

AN ACT to repeal section 84.160, RSMo, and to enact in lieu thereof one new section relating to pay for police officers, with an emergency clause.

SECTION

A. Enacting clause.
84.160. Annual salary tables — overtime, how compensated — other employment benefits — unused vacation, compensation for certain officers.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 84.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 84.160, to read as follows:

84.160. ANNUAL SALARY TABLES — OVERTIME, HOW COMPENSATED — OTHER EMPLOYMENT BENEFITS — UNUSED VACATION, COMPENSATION FOR CERTAIN OFFICERS. — 1. Based upon rank and length of service, the board of police commissioners may authorize maximum amounts of compensation for members of the police force in accordance with the following tables. The amounts of compensation set out in the following tables shall be the maximum amount of compensation payable to commissioned employees in each of the categories, except as expressly provided in this section.

2. From July 1, **[**2002**] 2005**, until June 30, **[**2003**] 2006**:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt. Col. Salary	Asst. Chief Salary	Chief Salary
[0	32981							
1	34182							
2	35293							

3	37356							
4	38377							
5	39703	48095						
6	41029	48241						
7	43573	51200	56276					
8	45398	53329	58605					
9	47288	55528	61011	66443				
10	47457	55695	61178	66611				
11	47985	55863	61344	66779	73020			
12	48161	56029	61513	66946	73188	75129	79038	93704
13	48327	56197	61680	67114	73353	77673	81582	94037
14	48493	56365	61847	67280	73521	77839	81749	94371
15	48662	56531	62014	67447	73688	78008	81918	94705
16	48828	56698	62180	67614	73856	78174	82083	95040
17	48997	56866	62349	67782	74024	78343	82252	95374
18	49163	57033	62516	68019	74189	78508	82418	95707
19	49329	57200	62684	68116	74357	78675	82584	96043
20	49497	57367	62850	68283	74525	78843	82754	96378
21	49664	57533	63017	68450	74692	79010	82919	96711
22	49831	57702	63185	68617	74858	79179	83087	97045
23	49999	57869	63352	68785	75025	79344	83254	97380
24	50165	58035	63520	68952	75192	79514	83421	97712
25	50333	58203	63686	69120	75361	79679	83590	98048
26	50500	58369	63853	69287	75528	79846	83755	98383
27	50669	58538	64021	69453	75694	80015	83923	98718
28	50835	58705	64188	69621	75860	80180	84088	99052
29	51001	58871	64353	69788	76029	80349	84257	99384
30	51168	59039	64522	69953	76196	80514	84426	99720**]**
0	**34331**							
1	**35532**							
2	**36643**							
3	**38706**							
4	**39727**							
5	**41053**	**49445**						
6	**42379**	**49591**						
7	**44923**	**52550**	**57626**					
8	**46748**	**54679**	**59955**					
9	**48638**	**56878**	**62361**	**67793**				
10	**48807**	**57045**	**62528**	**67961**				
11	**49335**	**57213**	**62694**	**68129**	**74370**			
12	**49511**	**57379**	**62863**	**68296**	**74538**	**76479**	**80388**	**95054**
13	**49677**	**57547**	**63030**	**68464**	**74703**	**79023**	**82932**	**95387**
14	**49843**	**57715**	**63197**	**68630**	**74871**	**79189**	**83099**	**95721**
15	**50012**	**57881**	**63364**	**68797**	**75038**	**79358**	**83268**	**96055**
16	**50178**	**58048**	**63530**	**68964**	**75206**	**79524**	**83433**	**96390**
17	**50347**	**58216**	**63699**	**69132**	**75374**	**79693**	**83602**	**96724**
18	**50513**	**58383**	**63866**	**69369**	**75539**	**79858**	**83768**	**97057**
19	**50679**	**58550**	**64034**	**69466**	**75707**	**80025**	**83934**	**97393**
20	**50847**	**58717**	**64200**	**69633**	**75875**	**80193**	**84104**	**97728**
21	**51014**	**58883**	**64367**	**69800**	**76042**	**80360**	**84269**	**98061**
22	**51181**	**59052**	**64535**	**69967**	**76208**	**80529**	**84437**	**98395**
23	**51349**	**59219**	**64702**	**70135**	**76375**	**80694**	**84604**	**98730**

24	**51515**	**59385**	**64870**	**70302**	**76542**	**80864**	**84771**	**99062**
25	**51683**	**59553**	**65036**	**70470**	**76711**	**81029**	**84940**	**99398**
26	**51850**	**59719**	**65203**	**70637**	**76878**	**81196**	**85105**	**99733**
27	**52019**	**59888**	**65371**	**70803**	**77044**	**81365**	**85273**	**100068**
28	**52185**	**60055**	**65538**	**70971**	**77210**	**81530**	**85438**	**100402**
29	**52351**	**60221**	**65703**	**71138**	**77379**	**81699**	**85607**	**100734**
30	**52518**	**60389**	**65872**	**71303**	**77546**	**81864**	**85776**	**101070**

3. Each of the above-mentioned salaries shall be payable in biweekly installments. **The above-mentioned salaries assume twenty-six biweekly installments falling within the effective dates of the salary matrix. If twenty-seven biweekly installments fall within the effective dates of the salary matrix it is assumed that the salaries within the matrix will be adjusted upward accordingly to reflect the effect of an extra pay period falling within the effective dates of the salary matrix. Any increase in salaries within the matrix due to twenty-seven biweekly installments falling within the effective dates of the matrix will not continue into a period in which only twenty-six biweekly installments are paid.** Each officer of police and patrolman whose regular assignment requires nonuniformed attire may receive, in addition to his or her salary, an allowance not to exceed three hundred sixty dollars per annum payable biweekly. No additional compensation or compensatory time off for overtime, court time, or standby court time shall be paid or allowed to any officer of the rank of sergeant or above. Notwithstanding any other provision of law to the contrary, nothing in this section shall prohibit the payment of additional compensation pursuant to this subsection to officers of the ranks of sergeants and above, provided that funding for such compensation shall not:

(1) Be paid from the general funds of either the city or the board of police commissioners of the city; or

(2) Be violative of any federal law or other state law.

4. It is the duty of the municipal assembly or common council of the cities to make the necessary appropriation for the expenses of the maintenance of the police force in the manner herein and hereafter provided; provided, that in no event shall such municipal assembly or common council be required to appropriate for such purposes (including, but not limited to, costs of funding pensions or retirement plans) for any fiscal year a sum in excess of any limitation imposed by article X, section 21, Missouri Constitution; and provided further, that such municipal assembly or common council may appropriate a sum in excess of such limitation for any fiscal year by an appropriations ordinance enacted in conformity with the provisions of the charter of such cities.

5. The board of police commissioners shall pay additional compensation for all hours of service rendered by probationary patrolmen and patrolmen in excess of the established regular working period, and the rate of compensation shall be one and one-half times the regular hourly rate of pay to which each member shall normally be entitled; except that, the court time and court standby time shall be paid at the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given or deductions made from payments for overtime for the purpose of retirement benefits.

6. Probationary patrolmen and patrolmen shall receive additional compensation for authorized overtime, court time and court standby time whenever the total accumulated time exceeds forty hours. The accumulated forty hours shall be taken as compensatory time off at the officer's discretion with the approval of his supervisor.

7. The allowance of compensation or compensatory time off for court standby time shall be computed at the rate of one-third of one hour for each hour spent on court standby time.

8. The board of police commissioners may effect programs to provide additional compensation to its employees for successful completion of academic work at an accredited college or university, in amounts not to exceed ten percent of their yearly salaries or for field training officer and lead officer responsibilities in amounts not to exceed three percent of their

yearly salaries for field training officer responsibilities and an additional three percent of their yearly salaries for lead officer responsibilities. The board may designate up to one hundred fifty employees as field training officers and up to fifty employees as lead officers.

9. The board of police commissioners:

(1) Shall provide or contract for life insurance coverage and for insurance benefits providing health, medical and disability coverage for officers and employees of the department;

(2) Shall provide or contract for insurance coverage providing salary continuation coverage for officers and employees of the police department;

(3) Shall provide health, medical, and life insurance coverage for retired officers and employees of the police department. Health, medical and life insurance coverage shall be made available for purchase to the spouses or dependents of deceased retired officers and employees of the police department who receive pension benefits pursuant to sections 86.200 to 86.364, RSMo, at the rate that such dependent's or spouse's coverage would cost under the appropriate plan if the deceased were living;

(4) May pay an additional shift differential compensation to members of the police force for evening and night tour of duty in an amount not to exceed ten percent of the officer's base hourly rate.

10. The board of police commissioners shall pay additional compensation to members of the police force up to and including the rank of police officer for any full hour worked between the hours of 11:00 p.m. and 7:00 a.m., in amounts equal to five percent of the officer's base hourly pay.

11. The board of police commissioners, from time to time and in its discretion, may pay additional compensation to police officers, sergeants and lieutenants by paying commissioned officers in the aforesaid ranks for accumulated, unused vacation time. Any such payments shall be made in increments of not less than forty hours, and at rates equivalent to the base straight-time rates being earned by said officers at the time of payment; except that, no such officer shall be required to accept payment for accumulated unused vacation time.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to increase the pay level for police officers to retain quality police officers the repeal and reenactment 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 A of this act shall be in full force and effect upon its passage and approval.

Approved May 13, 2005

HB 453 [HB 453]

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

Authorizes the Governor to convey state property located in Phelps County to the City of St. James

AN ACT to authorize the governor to convey property owned by the state in the county of Phelps.

SECTION

1. Conveyance of state property in Phelps County to the City of St. James.

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

SECTION 1. CONVEYANCE OF STATE PROPERTY IN PHELPS COUNTY TO THE CITY OF ST. JAMES. — 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 Phelps to the City of St. James. The property to be conveyed is more particularly described as follows:

A fractional part of the West Half of the Northwest Quarter of Section 20, Township 38 North, Range 6 West of the 5th P.M. described as follows: Beginning at the Northeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 20; thence South 0°10'30" West, 156.20 feet along the East Line of said Southwest Quarter of the Northwest Quarter to a point on the southernly line of a parcel described in Phelps County Deed Records at Book 39, Page 544; thence South 55°12'40" West, 104.14 feet, and, South 55°19'30" West, 811.47 feet, and, South 53°16'30" West, 352.69 feet, all along said southernly line to the easterly right of way of Missouri Highways 8 & 68 (aka Jefferson Street); thence North 22°56'30" West, 15.54 feet, and, South 67°03'30" West, 12.00 feet, and, North 22°56'30" West, 54.71 feet, and, South 53°12'30" West, 10.30 feet, and, North 22°56'30" West, 38.99 feet, all along said easterly right of way; thence North 54°48' East, 394.07 feet; thence North 56°04'40" East, 211.47 feet; thence North 55°15'40" East, 299.30 feet; thence North 53°56'30" East, 116.51 feet; thence northeasterly 224.04 feet along the arc of a curve, concave northwesterly with a radius of 568.56 feet, the chord of which is North 42°39'10" East, 222.60 feet; thence North 41°51'50" East, 125.49 feet to the easterly line of the aforesaid Book 39, Page 544 parcel; thence South 30°51'30" East, 50.17 feet along said easterly line to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved July 14, 2005

HB 455 [HB 455]

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

Removes the requirement that watershed districts trustees must live in the district

AN ACT to repeal section 278.240, RSMo, and to enact in lieu thereof one new section relating to watershed districts.

SECTION

A. Enacting clause.

278.240. District board of supervisors to govern watershed district, combined boards to govern, when — trustees of watershed district, how elected, terms — powers of directors — mileage reimbursement authorized.

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

SECTION A. ENACTING CLAUSE. — Section 278.240, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 278.240, to read as follows:

278.240. DISTRICT BOARD OF SUPERVISORS TO GOVERN WATERSHED DISTRICT, COMBINED BOARDS TO GOVERN, WHEN — TRUSTEES OF WATERSHED DISTRICT, HOW ELECTED, TERMS — POWERS OF DIRECTORS — MILEAGE REIMBURSEMENT AUTHORIZED. — 1. The board of soil and water conservation district supervisors of the soil and water conservation district in which the watershed district is formed shall act in an advisory capacity to the watershed district board. When a watershed district lies in more than one soil and water conservation district, the combined boards of soil and water conservation district supervisors shall act in an advisory capacity to the watershed district board.

2. Five landowners **[**living**]** within the watershed district shall be elected to serve as trustees of the watershed district. The trustees shall be elected by a vote of landowners participating in the referendum for the establishment of the watershed district, but the date of the election shall not fall upon the date of any regular political election held in the county. The ballot submitting the proposition to form the watershed district shall be so worded as to clearly state that a tax, not to exceed forty cents on one hundred dollars valuation of all real estate within the watershed district, may be authorized if the watershed district is formed. In watershed districts formed after September 28, 1977, two trustees shall be elected for a term of six years, two shall be elected for a term of four years, and one shall be elected for a term of two years. Their successors shall be elected for terms of six years. In any district in existence on September 28, 1977, the three trustees holding office shall continue as trustees. At the next scheduled election within the watershed district, two additional trustees shall be elected. One of the additional trustees shall be elected for a term of four years and one shall be elected for a term of six years. Each successor shall be elected for a term of six years. In case of the death, loss of landowner standing within the watershed district, or resignation from office of any elected watershed district trustee, his or her successor to the unexpired term shall be appointed by the trustees of that watershed district. A trustee may succeed himself or herself by reelection in this office. The trustees shall elect one of their members as chairman and one of their members as secretary to serve for terms of two years.

3. The trustees shall act in all matters pertaining to the watershed district, except those concerning formation, consolidation, expansion or disestablishment of the watershed district. It shall be the responsibility of the secretary of the trustees to see that each soil and water district board included in the watershed district is provided a copy of the minutes of each meeting held by the trustees. The trustees shall be reimbursed for expenses incurred relating to the business of the watershed district.

Approved July 6, 2005

HB 461 [HCS HB 461]

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 laws regarding property assessment

AN ACT to repeal sections 53.260, 135.010, 137.073, 137.078, 137.100, and 137.106, RSMo, and to enact in lieu thereof eight new sections relating to assessment of personal property.

SECTION

A. Enacting clause.
53.260. Expenses to be paid by state.
135.010. Definitions.
137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.

137.078. Depreciation schedules for broadcasting equipment, definitions — true value in money, how determined — tables.
137.079. Business personal property, excludes from total assessed valuation a portion of assessed valuation for property subject to appeal.
137.100. Certain property exempt from taxes.
137.106. Homestead preservation — definitions — homestead exemption credit received, when, application process — assessor's duties — department of revenue duties — exemption limit set, when, how applied — rulemaking authority — sunset provision.
137.122. Depreciable tangible personal property — definitions — standardized schedule to be used — valuation table — exceptions.

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

SECTION A. ENACTING CLAUSE. — Sections 53.260, 135.010, 137.073, 137.078, 137.100, and 137.106, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 53.260, 135.010, 137.073, 137.078, 137.079, 137.100, 137.106, and 137.122, to read as follows:

53.260. EXPENSES TO BE PAID BY STATE. — Subject to appropriation, expenses incurred by the assessor or assessor-elect in attending courses of study and additional courses referred to in sections 53.250 to 53.265 shall be paid by the state. Fees for registration, books and materials may be directly billed to the state as provided by the commissioner of administration. The cost of transportation, lodging and meals shall be reimbursed to the assessor or assessor-elect in the manner provided by the commissioner of administration.

135.010. DEFINITIONS. — As used in sections 135.010 to 135.030 the following words and terms mean:

(1) "Claimant", a person or persons claiming a credit under sections 135.010 to 135.030. If the persons are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a property tax credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year, or the claimant or spouse is a veteran of any branch of the armed forces of the United States or this state who became one hundred percent disabled as a result of such service, or the claimant or spouse is disabled as defined in subdivision (2) of this section, and such claimant or spouse provides proof of such disability in such form and manner, and at such times, as the director of revenue may require, or if the claimant has reached the age of sixty on or before the last day of the calendar year and such claimant received surviving spouse Social Security benefits during the calendar year and the claimant provides proof, as required by the director of revenue, that the claimant received surviving spouse Social Security benefits during the calendar year for which the credit will be claimed. **A claimant shall not be allowed a property tax credit if the claimant filed a valid claim for a credit under section 137.106 in the year following the year for which the property tax credit is claimed.** The residency requirement shall be deemed to have been fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax credit if a person of the age of sixty-five years or older who would have otherwise met the requirements for a property tax credit dies before the last day of the calendar year. The residency requirement shall also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who would have otherwise met the requirements for a property tax credit but who dies before the last day of the calendar year;

(2) "Disabled", the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve

months. A claimant shall not be required to be gainfully employed prior to such disability to qualify for a property tax credit;

(3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length, of a homestead during the calendar year, exclusive of charges for health and personal care services and food furnished as part of the rental agreement, whether or not expressly set out in the rental agreement. If the director of revenue determines that the landlord and tenant have not dealt at arm's length, and that the gross rent is excessive, then he shall determine the gross rent based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually paid prior to the date a return is filed. The director of revenue may prescribe regulations requiring a return of information by a landlord receiving rent, certifying for a calendar year the amount of gross rent received from a tenant claiming a property tax credit and shall, by regulation, provide a method for certification by the claimant of the amount of gross rent paid for any calendar year for which a claim is made. The regulations authorized by this subdivision may require a landlord or a tenant or both to provide data relating to health and personal care services and to food. Neither a landlord nor a tenant may be required to provide data relating to utilities, furniture, home furnishings or appliances;

(4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. It may consist of part of a multidwelling or multipurpose building and part of the land upon which it is built. "Owned" includes a vendee in possession under a land contract and one or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant actually in possession if he was the immediate former owner of record, if a lineal descendant is presently the owner of record, and if the claimant actually pays all taxes upon the property. It may include a mobile home;

(5) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo, less two thousand dollars as an exemption for the claimant's spouse residing at the same address, and increased, where necessary, to reflect the following:

(a) Social Security, railroad retirement, and veterans payments and benefits unless the claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one hundred percent service-connected, disabled veteran. The one hundred percent service-connected disabled veteran shall not be required to list veterans payments and benefits;

(b) The total amount of all other public and private pensions and annuities;

(c) Public relief, public assistance, and unemployment benefits received in cash, other than benefits received under this chapter;

(d) No deduction being allowed for losses not incurred in a trade or business;

(e) Interest on the obligations of the United States, any state, or any of their subdivisions and instrumentalities;

(6) "Property taxes accrued", property taxes paid, exclusive of special assessments, penalties, interest, and charges for service levied on a claimant's homestead in any calendar year. Property taxes shall qualify for the credit only if actually paid prior to the date a return is filed. The director of revenue shall require a tax receipt or other proof of property tax payment. If a homestead is owned only partially by claimant, then "property taxes accrued" is that part of property taxes levied on the homestead which was actually paid by the claimant. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of revenue for collection. If a claimant owns a homestead part of the preceding calendar year and rents it or a different homestead for part of the same year, "property taxes accrued" means only taxes levied on the homestead both owned and occupied by the claimant, multiplied by the percentage of twelve months that such property was owned and occupied as the homestead of the claimant during the year. When a claimant owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable to those several properties occupied by the claimant as a homestead for the year. If a homestead is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building,

property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part;

(7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by a claimant and spouse in the calendar year.

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

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

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

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

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

2. Whenever changes in assessed valuation are entered in the assessor's books for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation of each subclass of real property, individually, and personal property, in the aggregate, exclusive of new construction and improvements. All political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements,

substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate may not exceed the greater of the rate in effect in the 1984 tax year or the most recent voter-approved rate. Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor for any such subclass of real property or personal property shall be limited to the actual assessment growth in such subclass or class, exclusive of new construction and improvements, and exclusive of the assessed value on any real property which was assessed by the assessor of a county or city in the current year in a different subclass of real property, but not to exceed the consumer price index or five percent, whichever is lower. Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

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

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant

to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

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

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

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and

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

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

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

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

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one-hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. All forms for the calculation of rates pursuant to this section shall be promulgated as a rule and shall not be incorporated by reference. **[**Within thirty days after the effective date of this act,**]** The state auditor shall promulgate rules for any and all forms for the calculation of rates pursuant to this section which do not currently exist in rule form or that have been incorporated by reference. In addition, each taxing authority proposing to levy a tax rate for debt

service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

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

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the

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

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

11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

137.078. DEPRECIATION SCHEDULES FOR BROADCASTING EQUIPMENT, DEFINITIONS — TRUE VALUE IN MONEY, HOW DETERMINED — TABLES. — 1. For purposes of this section, the following terms shall mean:

(1) "Analog equipment", all depreciable items of tangible personal property that are used directly or indirectly in broadcasting television shows **[**and**], radio programs, or** commercials through the use of analog technology**, including studio broadcast equipment, transmitter and antenna equipment, and broadcast towers**;

(2) "Applicable analog fraction", a fraction, the numerator of which is the total number of analog television sets in the United States for the immediately preceding calendar year and the denominator of which is an amount representing the total combined number of analog and digital television sets in the United States for the immediately preceding calendar year. The applicable analog fraction will be determined on an annual basis by the Missouri Broadcasters Association;

(3) "Applicable analog percentage", the following percentages for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
				1%
2006				1%
2005			25%	1%
2004		50%	25%	1%
2003	75%	50%	25%	1%
2002	75%	50%	25%	1%
2001	75%	50%	25%	1%
2000	75%	50%	25%	1%
1999	75%	50%	25%	1%
1998	75%	50%	25%	1%

Prior	75%	50%	25%	1%;

(4) "Applicable digital fraction", a fraction, the numerator of which is the total number of digital television sets in the United States for the immediately preceding calendar year and the denominator of which is an amount representing the total combined number of analog and digital television sets in the United States for the immediately preceding calendar year. The applicable digital fraction will be determined on an annual basis by the Missouri Broadcasters Association;

(5) **"Broadcast towers", structures with a function that includes holding television or radio broadcasters' antennae, repeaters, or translators at the height required or needed to transmit over-the-air signals or enhance the transmission of the signals. This term also includes the structures at least partially used by television broadcasters or radio broadcasters to provide weather radar information to the public. For property tax assessment purposes, broadcast towers are classified as tangible personal property;**

(6) "Digital equipment", all depreciable items of tangible personal property that are used directly or indirectly in broadcasting television shows **[**and**], radio programs, or** commercials through the use of digital technology**, including studio broadcast equipment, transmitter and antenna equipment, and broadcast towers**;

(7) "Radio broadcasters", all businesses that own, lease, or operate radio broadcasting stations that transmit radio shows and commercials and that are required to be licensed by the Federal Communications Commission to provide such services;

(8) "Radio broadcasting equipment", both analog equipment and digital equipment;

[(6)**] (9)** "Television broadcasters", all businesses that own, lease, or operate television broadcasting stations that transmit television shows and commercials and that are required to be licensed by the Federal Communications Commission to provide such services;

[(7)**] (10)** "Television broadcasting equipment", both analog equipment and digital equipment**;**

(11) "Transmitter and antenna equipment", equipment with functions that include transmitting signals from broadcast studios by increasing the power, tuning signals to the frequency allowed by regulatory authorities, and broadcasting signals to the public for television broadcasters or radio broadcasters;

(12) "Studio broadcast equipment", studio equipment that receives, produces, modifies, controls, measures, modulates, adds to or subtracts from, or enhances signals in the process that results in over-the-air signals for television broadcasters or radio broadcasters.

2. In response to recent action by the Federal Communications Commission, as described by the commission in the fifth report and order, docket number 97-116, for purposes of assessing all items of television broadcasting equipment that are owned and used by television broadcasters for purposes of broadcasting television shows and commercials:

(1) The true value in money of all analog equipment shall be determined by depreciating the historical cost of such property using the depreciation tables provided in subdivision (1) of subsection 3 of this section and multiplying the results by the applicable analog percentage. The result of the second computation is multiplied by the applicable analog fraction to determine the true value in money of the analog equipment; and

(2) The true value in money of all digital equipment shall be determined by depreciating the historical cost of such property using the depreciation tables provided in subdivision (2) of subsection 3 of this section and multiplying the results by the applicable digital fraction to determine the true value in money of the digital equipment.

3. For purposes of subsection 2 of this section, the depreciation tables for determining the [fair] **true** value in money of television broadcasting equipment are as follows:

(1) For analog equipment, the following depreciation tables will apply for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year

2006				65%
2005			65%	45%
2004		65%	45%	30%
2003	65%	45%	30%	20%
2002	45%	30%	20%	10%
2001	30%	20%	10%	5%
2000	20%	10%	5%	5%
1999	10%	5%	5%	5%
1998	5%	5%	5%	5%
Prior	5%	5%	5%	5%;

(2) For digital equipment, the following depreciation tables will apply for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
2006				65%
2005			65%	45%
2004		65%	45%	30%
2003	65%	45%	30%	20%
2002	45%	30%	20%	10%
2001	30%	20%	10%	5%
2000	20%	10%	5%	5%
1999	10%	5%	5%	5%
1998	5%	5%	5%	5%
Prior	5%	5%	5%	5%.

4. Beginning January 1, 2008, for purposes of assessing all items of television broadcasting equipment that are owned and used by television broadcasters for purposes of broadcasting television shows and commercials, the following depreciation tables will be used to determine their true value in money. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

Year	Studio Broadcast Equipment		Transmitter and Antenna Equipment		Broadcast Tower
1	6	5%	9	1%	96%
2	4	5%	8	2%	93%
3	3	0%	7	3%	89%
4	2	0%	6	4%	86%
5	1	0%	5	5%	82%
6		5%	4	6%	79%
7			3	7%	75%
8			2	8%	72%
9			1	9%	68%
10			1	0%	65%
11					61%
12					58%
13					54%
14					51%
15					47%
16					44%
17					40%
19					33%

20	30%
21	27%
22	24%
23	21%
24	18%
25	15%.

Television broadcasting equipment in all recovery periods shall continue in subsequent years to have the depreciation percentage last listed in the appropriate column so long as it is owned or held by the taxpayer.

5. Effective January 1, 2006, for purposes of assessing all items of radio broadcasting equipment that are owned and used by radio broadcasters for purposes of broadcasting radio programs and commercials, the following depreciation tables will be used to determine their true value in money. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

Year	Studio Broadcast Equipment	Transmitter and Antenna Equipment	Broadcast Tower
1	6 5%	9 1%	96%
2	4 5%	8 2%	93%
3	3 0%	7 3%	89%
4	2 0%	6 4%	86%
5	1 0%	5 5%	82%
6	5%	4 6%	79%
7		3 7%	75%
8		2 8%	72%
9		1 9%	68%
10		1 0%	65%
11			61%
12			58%
13			54%
14			51%
15			47%
16			44%
17			40%
19			33%
20			30%
21			27%
22			24%
23			21%
24			18%
25			15%.

Radio broadcast equipment in all recovery periods shall continue in subsequent years to have the depreciation percentage last listed in the appropriate column so long as it is owned or held by the taxpayer.

137.079. BUSINESS PERSONAL PROPERTY, EXCLUDES FROM TOTAL ASSESSED VALUATION A PORTION OF ASSESSED VALUATION FOR PROPERTY SUBJECT TO APPEAL. — Prior to setting its rate or rates as required by section 137.073, each taxing authority shall exclude from its total assessed valuation seventy-two percent of the total amount of assessed value to business personal property that is subject of an appeal at the state tax commission or in a court of competent jurisdiction in this state. This exclusion shall only

apply to the portion of the assessed value of business personal property that is disputed in the appeal, and shall not exclude any portion of the same property that is not disputed. If the taxing authority uses a multi-rate approach as provided in section 137.073, this exclusion shall be made from the personal property class. The state tax commission shall provide each taxing authority with the total assessed value of business personal property within the jurisdiction of such taxing authority for which an appeal is pending no later than August 20 of each year. Whenever any appeal is resolved, whether by final adjudication or settlement, and the result of the appeal causes money to be paid to the taxing authority, the taxing authority shall not be required to make an additional adjustment to its rate or rates due to such payment once the deadline for setting its rates, as provided by this chapter, has passed in a taxable year, but shall adjust its rate or rates due to such payment in the next rate setting cycle to offset the payment in the next taxable year. For the purposes of this section, the term "business personal property", means tangible personal property which is used in a trade of business or used for production of income and which has a determinable life of longer than one year except that supplies used by a business shall also be considered business personal property, but shall not include livestock, farm machinery, property subject to the motor vehicle registration provisions of chapter 301, RSMo, property subject to the tables provided in section 137.078, property of rural electric cooperatives under chapter 394, RSMo, or property assessed by the state tax commission under chapters 151, 153, and 155, RSMo, section 137.022, and sections 137.1000 to 137.1030.

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;

(7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision **or to any religious, educational, or charitable organization which has obtained an exemption from the payment of federal income taxes, provided the motor vehicles are used exclusively for religious, educational, or charitable purposes**; and

(8) Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, to another for which or whom such property is not exempt when immediately after the lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the interstate compact agency.

Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:

(a) The right of the interstate compact agency to use, control, and possess the property is terminated;

(b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and

(c) There are no provisions for reverter of the property within the limitation period for reverters.

137.106. HOMESTEAD PRESERVATION — DEFINITIONS — HOMESTEAD EXEMPTION CREDIT RECEIVED, WHEN, APPLICATION PROCESS — ASSESSOR'S DUTIES — DEPARTMENT OF REVENUE DUTIES — EXEMPTION LIMIT SET, WHEN, HOW APPLIED — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section may be known and may be cited as "The Missouri Homestead Preservation Act".

2. As used in this section, the following terms shall mean:

(1) "Department", the department of revenue;

(2) "Director", the director of revenue;

(3) "Disabled", as such term is defined in section 135.010, RSMo;

(4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to subsection 4 of this section; in the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to subsection 4 of this section did not exceed the maximum upper limit; **in the case of property held in trust, the eligible owner and recipient of the tax credit shall be the trust itself provided the previous owner of the homestead or the previous owner's spouse: is the settlor of the trust with respect to the homestead; currently resides in such homestead; and but for the transfer of such property would have satisfied the age, ownership, and maximum upper limit requirements for income as defined in subdivisions 7 and 8 of this subsection;** no individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year, **[**not including the year in which the application was completed,**]** shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person **[**qualifies**] filed a valid claim** for the senior citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value**, except where an eligible owner of the property has made such improvements to accommodate a disabled person**;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not including improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection **[**8**] 10** of this section**. For applications filed in 2005 or 2006, the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005. For applications filed between April 1, 2005 and September 30, 2006, an eligible owner, who otherwise satisfied the requirements of this section, shall not apply for the homestead**

exemption credit more than once during such period. For applications filed after 2006, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application;

(7) "Income", federal adjusted gross income**, and in the case of ownership of the homestead by trust, the income of the settlor applicant shall be imputed to the income of the trust for purposes of determining eligibility with regards to the maximum upper limit**;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. **If application is made in 2005,** any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property; and

(4) That any improvements made to the homestead**, not made to accommodate a disabled person,** did not total more than five percent of the prior year appraised value. The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. **If application is made in 2005,** the assessor, upon **[**receiving**] request for** an application, shall:

(1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;

(2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks **for inclusion on the form**;

(3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and

(4) Sign the application, certifying the accuracy of the assessor's entries.

6. **If application is made after 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application. Applications may be completed between April 1 and September 30 of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall**

be on forms provided by the department. Forms also shall be made available on the department's internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

(1) To the applicant's age;

(2) That the applicant's prior year income was less than the maximum upper limit;

(3) To the address of the homestead property;

(4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value; and

(5) The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the three prior tax years.

7. Each applicant shall send the application to the department by September thirtieth of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

[7.**] 8. If application is made in 2005,** upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the tax year that ended immediately prior. Such eligible owners shall be disqualified from receiving the credit in the current tax year.

[8.**] 9. If application is made after 2005, upon receipt of the applications, the department shall calculate the tax liability, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income is verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.**

10. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

[9.**] 11. [**If, in any given year,**] For applications made in 2005,** the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the

governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

[10.**] 12.** After setting the homestead exemption limit **for applications made in 2005**, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation **and assessment fund allocation** to the county collector's funds of each county **or the treasurer ex officio collector's fund in counties with a township form of government** where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector **or the treasurer ex officio collector in counties with a township form of government**, shall be deposited in the county collector's fund of a county **or the treasurer ex officio collector's fund** or may be sent by mail to the collector of a county**, or the treasurer ex officio collector in counties with a township form of government,** not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues **by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government**, so as to exactly offset each homestead exemption credit being issued. **In counties with a township form of government, the county clerk shall provide the treasurer ex officio collector a summary of the homestead exemption credit for each township for the purpose of distributing the total homestead exemption credit to each township collector in a particular county.**

[11.**] 13. If, in any given year after 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.**

14. After setting the homestead exemption limit for applications made after 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate

the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex-officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

15. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

[12.**]** **16.** In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to **[**the mailing of the tax bill**]** **January first of the year in which the credit would otherwise be applied**, the credit shall be void and any corresponding moneys, pursuant to subsection 10 of this section, shall lapse to the state to be credited to the general revenue fund. **In the event the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government determines prior to issuing the credit that the individual is not an eligible owner because the individual did not pay the prior three years' property tax liability in full, the credit shall be void and any corresponding moneys, under subsection 11 of this section, shall lapse to the state to be credited to the general revenue fund.**

[13.**]** **17.** This section shall apply to all tax years beginning on or after January 1, 2005. This subsection shall become effective June 28, 2004.

[14.**]** **18.** In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal.

137.122. DEPRECIABLE TANGIBLE PERSONAL PROPERTY — DEFINITIONS — STANDARDIZED SCHEDULE TO BE USED — VALUATION TABLE — EXCEPTIONS. — 1. As used in this section, the following terms mean:

(1) "Business personal property", tangible personal property which is used in a trade or business or used for production of income and which has a determinable life of longer than one year except that supplies used by a business shall also be considered business personal property, but shall not include livestock, farm machinery, grain and other agricultural crops in an unmanufactured condition, property subject to the motor vehicle registration provisions of chapter 301, RSMo, property assessed under section 137.078, property of rural electric cooperatives under chapter 394, RSMo, or property assessed by the state tax commission under chapters 151, 153, and 155, RSMo, section 137.022, and sections 137.1000 to 137.1030;

(2) "Class life", the class life of property as set out in the federal Modified Accelerated Cost Recovery System life tables or their successors under the Internal Revenue Code as amended;

(3) "Economic or functional obsolescence", a loss in value of personal property above and beyond physical deterioration and age of the property. Such loss may be the result of economic or functional obsolescence or both;

(4) "Original cost", the price the current owner, the taxpayer, paid for the item without freight, installation, or sales or use tax. In the case of acquisition of items of personal property as part of an acquisition of an entity, the original cost shall be the historical cost of those assets remaining in place and in use and the placed in service date shall be the date of acquisition by the entity being acquired;

(5) "Placed in service", property is placed in service when it is ready and available for a specific use, whether in a business activity, an income-producing activity, a tax-exempt activity, or a personal activity. Even if the property is not being used, the property is in service when it is ready and available for its specific use;

(6) "Recovery period", the period over which the original cost of depreciable tangible personal property shall be depreciated for property tax purposes and shall be the same as the recovery period allowed for such property under the Internal Revenue Code.

2. To establish uniformity in the assessment of depreciable tangible personal property, each assessor shall use the standardized schedule of depreciation in this section to determine the assessed valuation of depreciable tangible personal property for the purpose of estimating the value of such property subject to taxation under this chapter.

3. For purposes of this section, and to estimate the value of depreciable tangible personal property for mass appraisal purposes, each assessor shall value depreciable tangible personal property by applying the class life and recovery period to the original cost of the property according to the following depreciation schedule. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

Year	Recovery Period in Years					
	3	5	7	10	15	20
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	5.00	24.99	42.88	56.81	69.25	76.18
5		10.00	30.63	48.07	62.32	70.46
6			18.38	39.33	56.09	65.18
7			10.00	30.59	50.19	60.29
8				21.85	44.29	55.77

9	**15.00**	**38.38**	**51.31**
10		**32.48**	**46.85**
11		**26.57**	**42.38**
12		**20.67**	**37.92**
13		**15.00**	**33.46**
14			**29.00**
15			**24.54**
16			**20.08**
17			**20.00**

Depreciable tangible personal property in all recovery periods shall continue in subsequent years to have the depreciation factor last listed in the appropriate column so long as it is owned or held by the taxpayer. The state tax commission shall study and analyze the values established by this method of assessment and in every odd-numbered year make recommendations to the joint committee on tax policy pertaining to any changes in this methodology, if any, that are warranted.

4. Such estimate of value determined under this section shall be presumed to be correct for the purpose of determining the true value in money of the depreciable tangible personal property, but such estimation may be disproved by substantial and persuasive evidence of the true value in money under any method determined by the state tax commission to be correct, including, but not limited to, an appraisal of the tangible personal property specifically utilizing generally accepted appraisal techniques, and contained in a narrative appraisal report in accordance with the Uniform Standards of Professional Appraisal Practice or by proof of economic or functional obsolescence or evidence of excessive physical deterioration. For purposes of appeal of the provisions of this section, the salvage or scrap value of depreciable tangible personal property may only be considered if the property is not in use as of the assessment date.

5. This section shall not apply to business personal property placed in service before January 2, 2006.

6. The provisions of this section are not intended to modify the definition of "tangible personal property" as defined in section 137.010.

Approved July 6, 2005

HB 462 [HCS HB 462 & 463]

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 laws regarding suicide prevention

AN ACT to repeal sections 537.037 and 630.140, RSMo, and to enact in lieu thereof four new sections relating to suicide prevention.

SECTION

A. Enacting clause.
537.037. Emergency care, no civil liability, exceptions (Good Samaritan law).
630.140. Records confidential, when — may be disclosed, to whom, how, when — release to be documented — court records confidential, exceptions.
630.910. Suicide prevention advisory committee created, members, terms, meetings, duties.
630.915. Funding for participation in the National Violent Death Reporting System to be sought — state-based system to be developed, when — use of information — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Sections 537.037 and 630.140, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 537.037, 630.140, 630.910, and 630.915, to read as follows:

537.037. EMERGENCY CARE, NO CIVIL LIABILITY, EXCEPTIONS (GOOD SAMARITAN LAW). — 1. Any physician or surgeon, registered professional nurse or licensed practical nurse licensed to practice in this state under the provisions of chapter 334 or 335, RSMo, or licensed to practice under the equivalent laws of any other state and any person licensed as a mobile emergency medical technician under the provisions of chapter 190, RSMo, may:

(1) In good faith render emergency care or assistance, without compensation, at the scene of an emergency or accident, and shall not be liable for any civil damages, for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care;

(2) In good faith render emergency care or assistance, without compensation, to any minor involved in an accident, or in competitive sports, or other emergency at the scene of an accident, without first obtaining the consent of the parent or guardian of the minor, and shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering the emergency care.

2. Any other person who has been trained to provide first aid in a standard recognized training program may, without compensation, render emergency care or assistance to the level for which he or she has been trained, at the scene of an emergency or accident, and shall not be liable for civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

3. Any mental health professional, as defined in section 632.005, RSMo, or substance abuse counselor, as defined in section 631.005, RSMo, or any practicing medical, osteopathic, or chiropractic physician, or certified nurse practitioner, or physicians' assistant may in good faith render suicide prevention interventions at the scene of a threatened suicide and shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such suicide prevention interventions.

4. Any other person who has been trained to provide suicide prevention interventions in a standard recognized training program may, without compensation, render suicide prevention interventions to the level for which such person has been trained at the scene of a threatened suicide and shall not be liable for civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such suicide prevention interventions.

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. 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**;**

(11) To parents, legal guardians, treatment professionals, law enforcement officers, and other individuals who by having such information could mitigate the likelihood of a suicide. The facility treatment team shall have determined that the consumer's safety is at some level of risk.

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, 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 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.

630.910. SUICIDE PREVENTION ADVISORY COMMITTEE CREATED, MEMBERS, TERMS, MEETINGS, DUTIES. — 1. There is hereby created within the department of mental health the "Suicide Prevention Advisory Committee" to be comprised of the following eighteen members:

(1) Six representatives from each of the following state departments: mental health, health and senior services, social services, elementary and secondary education, corrections, and higher education;

(2) Ten citizen members representing suicide survivors, the criminal justice system, the business community, clergy, schools, youth, mental health professionals, health care providers, nonprofit organizations, and a researcher to be appointed by the governor;

(3) One member from the house of representatives to be appointed by the speaker of the house of representatives; and

(4) One member of the senate to be appointed by the president pro tem of the senate.

2. The initial appointments to the advisory committee shall be made by October 1, 2005. The initial ten members appointed under subdivision (2) of subsection 1 of this section shall be appointed as follows: four members shall be appointed for a four-year term, three members shall be appointed for a three-year term, and three members shall be appointed for a two-year term.

3. The first meeting of the advisory committee shall be scheduled by the director of the department of mental health and held on or before December 1, 2005. The committee shall meet at least quarterly thereafter. The director of the department of mental health, or the director's designee, shall be the chair of the advisory committee. Each of the departments listed in subdivision (1) of subsection 1 of this section shall provide staff and technical support for the advisory committee.

4. The advisory committee shall:

(1) Provide oversight, technical support, and outcome promotion for prevention activities;

(2) Develop annual goals and objectives for ongoing suicide prevention efforts;

(3) Make information on prevention and mental health intervention models available to community groups implementing suicide prevention programs;

(4) Promote the use of outcome methods that will allow comparison and evaluation of the efficacy, effectiveness, cultural competence, and cost-effectiveness of plan-supported interventions, including making specific recording and monitoring instruments available for plan-supported projects;

(5) Review and recommend changes to existing or proposed statutes, rules, and policies to prevent suicides; and

(6) Coordinate and issue a biannual report on suicide and suicidal behaviors in the state using information drawn from federal, state, and local sources.

5. Members of the committee shall serve without compensation but the ten citizen members may be reimbursed for any actual expenses incurred in the performance of their duties as members of the advisory committee.

630.915. FUNDING FOR PARTICIPATION IN THE NATIONAL VIOLENT DEATH REPORTING SYSTEM TO BE SOUGHT — STATE-BASED SYSTEM TO BE DEVELOPED, WHEN — USE OF INFORMATION — SUNSET PROVISION. — 1. The department of mental health, in consultation with the department of health and senior services, shall seek funding from the Centers for Disease Control and Prevention to participate in the National Violent Death Reporting System (NVDRS) to obtain better information about violent deaths, including suicide.

2. If such funding under subsection 1 of this section is not available to the state of Missouri, on or before July 1, 2006, the department of mental health, in consultation with the department of health and senior services and subject to appropriation, shall develop a state-based reporting system based on the National Violent Death Reporting System that will provide information needed to accurately assess the factors causing violent deaths, including suicide.

3. Information obtained from this state's participation in the National Violent Death Reporting System under subsection 1 of this section or the state-based system developed under subsection 2 of this section shall be used to help answer questions regarding the magnitude, trends, and characteristics of violent deaths and assist in the evaluation and improvement of violence prevention policies and programs.

4. Information obtained under this section shall be provided to the suicide prevention advisory committee established under section 630.910.

5. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved June 24, 2005

HB 479 [HB 479]

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 disincorporation of a regional recreational district in Clay County upon the request of the district

AN ACT to repeal section 67.792, RSMo, and to enact in lieu thereof one new section relating to regional recreational districts.

SECTION
A. Enacting clause.
67.792. Regional recreation district may be created, territory that may be included — ineligible areas, exception — powers of district — disincorporation in Clay County, procedure.

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

SECTION A. ENACTING CLAUSE. — Section 67.792, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.792, to read as follows:

67.792. REGIONAL RECREATION DISTRICT MAY BE CREATED, TERRITORY THAT MAY BE INCLUDED — INELIGIBLE AREAS, EXCEPTION — POWERS OF DISTRICT — DISINCORPORATION IN CLAY COUNTY, PROCEDURE. — 1. A regional recreational district may be created, incorporated and managed as provided in sections 67.792 to 67.799 and may exercise the powers prescribed by sections 67.792 to 67.799. A regional recreational district may include municipalities or territory not in municipalities or both, or territory in one or more counties, if the voters in the proposed district vote, pursuant to section 67.796, to be included in the regional recreational district. No regional recreational district shall be organized pursuant to sections 67.792 to 67.799 if such district contains any portion of, according to the last federal decennial census:

(1) A county of the first classification having a charter form of government and having a population of at least nine hundred thousand inhabitants;

(2) A county of the first classification having a charter form of government and having a population of more than two hundred ten thousand but less than three hundred thousand inhabitants;

(3) A city not within a county; or

(4) A county of the first classification having a population of more than one hundred seventy thousand but less than one hundred seventy-five thousand inhabitants.

Any recreation system or public parks system which exists in whole or in part within a regional recreational district created pursuant to sections 67.792 to 67.799 shall remain in existence with the same powers and responsibilities it had prior to the creation of the regional recreational district. Nothing in this section shall be construed to limit or prohibit later establishment or cessation of any park or recreation system or any powers and responsibilities of any such park or recreation system pursuant to state law.

2. When a regional recreational district is organized it shall be a body corporate and a political subdivision of the state, as that term is defined in subdivision (7) of section 67.750, and shall be known as ". . . . . Regional Recreational District", and in that name may sue and be sued, issue general revenue bonds and levy and collect taxes within the limitations of sections 67.792 to 67.799.

3. Notwithstanding the provisions of sections 67.792 to 67.799 to the contrary, in any regional recreational district located in whole or in part in any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, a request to disincorporate the district shall be presented to the county commission or similar authority. The request shall state the name of the district and shall request the disincorporation of the district when:

(1) The regional recreational district enacts a resolution to disincorporate the district;

(2) The regional recreational district has no more than one thousand dollars in debt; and

(3) The regional recreational district has disposed of all real property.

If a request is submitted as authorized in this section, and it is the opinion of the county commission that the public good will be advanced by the disincorporation after providing notice and a hearing, the county commission shall disincorporate the regional recreational office.

Approved July 6, 2005

HB 486 [HB 486]

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

Creates exceptions to the prohibition on sexual offender counselors related within the third degree of consanguinity or affinity to any person who has a financial interest in the service provider

AN ACT to repeal section 566.140, RSMo, and to enact in lieu thereof one new section relating to service providers for sexual offender treatment for probationers.

SECTION
A. Enacting clause.
566.140. Treatment and rehabilitation program for perpetrators of sexual offenses, when — assessment or counseling services, provision of, restrictions.

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

SECTION A. ENACTING CLAUSE. — Section 566.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 566.140, to read as follows:

566.140. TREATMENT AND REHABILITATION PROGRAM FOR PERPETRATORS OF SEXUAL OFFENSES, WHEN — ASSESSMENT OR COUNSELING SERVICES, PROVISION OF, RESTRICTIONS. — 1. Any person who has pleaded guilty to or been found guilty of violating the provisions of this chapter, and is granted a suspended imposition or execution of sentence or placed under the supervision of the board of probation and parole shall be required to participate in and successfully complete a program of treatment, education and rehabilitation designed for perpetrators of sexual offenses. Persons required to attend a program pursuant to this section may be charged a reasonable fee to cover the costs of such program.

2. No person who provides assessment services or who makes a report, finding, or recommendation for any probationer to attend any counseling or program of treatment, education or rehabilitation as a condition or requirement of probation, following the probationer's plea of guilty to or a finding of guilt of violating any provision of this chapter or chapter 565, RSMo, may be related within the third degree of consanguinity or affinity to any person who has a financial interest, whether direct or indirect, in the counseling or program of treatment, education or rehabilitation or any financial interest, whether direct or indirect, in any private entity which provides the counseling or program of treatment, education or rehabilitation. Any person who violates this subsection shall thereafter:

(1) Immediately remit to the state of Missouri any financial income gained as a direct or indirect result of the action constituting the violation;

(2) Be prohibited from providing assessment or counseling services or any program of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in contract with the state board of probation and parole or any office thereof; and

(3) Be prohibited from having any financial interest, whether direct or indirect, in any private entity which provides assessment or counseling services or any program of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in contract with the state board of probation and parole or any office thereof.

3. The provisions of subsection 2 of this section shall not apply when the department of corrections has identified only one qualified service provider within reasonably accessible distance from the offender or when the only providers available within a reasonable distance are related within the third degree of consanguinity or affinity to any person who has a financial interest in the service provider.

Approved June 22, 2005

HB 487 [SS SCS HB 487]

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 laws regarding titling and registration of motor vehicles and the licensing of drivers

AN ACT to repeal sections 8.177, 43.530, 136.055, 137.100, 144.025, 168.133, 260.218, 300.330, 301.010, 301.020, 301.025, 301.129, 301.190, 301.215, 301.290, 301.300, 301.301, 301.567, 302.177, 302.510, 302.530, 302.735, 304.022, 304.155, 307.180, 577.041, RSMo, section 301.130 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, section 301.130 as enacted by senate committee substitute for house bill no. 491, ninety-second general assembly, first regular session, section 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969 merged with house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, section 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969, ninety-second general assembly, second regular session, and to enact in lieu thereof thirty-eight new sections relating to motor vehicles, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
8.177. Missouri capitol police officers, powers and duties.
43.530. Fees, method of payment — criminal record system fund, established — fund not to lapse.
67.1809. Licensure, supervision, and regulation of persons who engage in the business of transporting passengers in commerce.
136.055. Agent to collect motor vehicle taxes and issue licenses — fees — sign required.
137.100. Certain property exempt from taxes.
144.025. Transactions involving trade-in or rebate, how computed — exceptions — definitions — agricultural use, allowance.
168.133. Criminal background checks required for school personnel, when, procedure — rulemaking authority.
227.363. Richard L. Harriman highway designated in Clay County.

300.330. Vehicle shall not be driven on a sidewalk — prohibition on obstruction of bicycle lanes — drivers to yield to bicycles in designated bicycle lanes.
300.411. Distance to be maintained when overtaking a bicycle.
301.010. Definitions.
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.
301.025. Personal property taxes and federal heavy vehicle use tax, paid when — tax receipt forms — failure to pay personal property tax, effect of, notification requirements, reinstatement fee, appeals — rulemaking, procedure.
301.129. Advisory committee, duties, members, public meetings, expenses, dissolution of committee.
301.130. License plates, required slogan and information — special plates — plates, how displayed — tabs to be used — rulemaking authority, procedure.
301.130. License plates, required slogan and information — special plates — plates, how displayed — tabs to be used — rulemaking authority, procedure.
301.190. Certificate of ownership — application, contents — special requirements, certain vehicles — fees — failure to obtain within time limit, delinquency penalty — duration of certificate — unlawful to operate without certificate — certain vehicles brought into state in a wrecked or damaged condition or after being towed, inspection — certain vehicles previously registered in other states, designation — reconstructed motor vehicles, procedure.
301.215. Certificate of title on repossession under mortgage, issuance — contents — application — notice — rulemaking authority.
301.290. Correctional enterprises to manufacture plates and highway signs — money received for manufacturing plates and signs, how deposited.
301.300. Replacement of lost, stolen or damaged certificates, plates, or tabs, procedure to obtain replacement or duplicates, fee — multiyear plates fee.
301.301. Stolen license plate tabs, replacement at no cost, when, procedure, limitation.
301.302. Missing license plate tab, no citation issued, when.
301.567. Advertising standards, violation of, when.
301.894. Purchase or trade of motor vehicles with certificates of title, requirements — resale of such vehicles, requirements — dealer liability, when — seller misrepresentation, liability.
302.177. Licenses, issuance and renewal, duration, fees.
302.272. School bus endorsement, qualifications — grounds for refusal to issue or renew endorsement — rulemaking authority — reciprocity.
302.272. School bus endorsement, qualifications — grounds for refusal to issue or renew endorsement — rulemaking authority — reciprocity.
302.510. Arresting officer, duties — certain arrests not to be basis for administrative suspension or revocation.
302.530. Request for administrative review, when made — temporary permit, duration — telephone hearings permitted, when — hearing, venue, conduct — decision, notice, final when — appeal for judicial review — rulemaking authority.
302.735. Application for commercial license, contents, expiration, duration, fees — new resident, application dates — falsification of information, ineligibility for license, when — nonresident commercial license issued, when.
304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
304.155. Abandoned motor vehicles on public property, removal — hazards on land and water, removal, limited liability, when — towing of property report to highway or water patrol or crime inquiry and inspection report when, owner liable for costs — check for stolen vehicles procedure — reclaiming vehicle — lien for charges — record maintenance by towing companies — lienholder repossession, procedure.
304.184. Transportation of solid waste, weight restrictions for trucks and tractor-trailers.
304.678. Distance to be maintained when overtaking a bicycle — violation, penalty.
307.180. Bicycle and motorized bicycle, defined.
307.191. Bicycle to operate on the shoulder adjacent to roadway, when — roadway defined.
307.192. Bicycle required to give hand or mechanical signals.
577.041. Refusal to submit to chemical test — notice, report of peace officer, contents — revocation of license, hearing — evidence, admissibility — reinstatement of licenses — substance abuse traffic offender program — assignment recommendations, judicial review — fees.
1. Bus drivers, medical endorsement required, when.
2. Bus driver training required.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 8.177, 43.530, 136.055, 137.100, 144.025, 168.133, 260.218, 300.330, 301.010, 301.020, 301.025, 301.129, 301.190, 301.215, 301.290,

301.300, 301.301, 301.567, 302.177, 302.510, 302.530, 302.735, 304.022, 304.155, 307.180, 577.041, RSMo, section 301.130 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, section 301.130 as enacted by senate committee substitute for house bill no. 491, ninety-second general assembly, first regular session, section 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969 merged with house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, section 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969, ninety-second general assembly, second regular session, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 8.177, 43.530, 67.1809, 136.055, 137.100, 144.025, 168.133, 227.363, 300.330, 300.411, 301.010, 301.020, 301.025, 301.129, 301.130, 301.190, 301.215, 301.290, 301.300, 301.301, 301.302, 301.567, 301.894, 302.177, 302.272, 302.510, 302.530, 302.735, 304.022, 304.155, 304.184, 304.678, 307.180, 307.191, 307.192, 577.041, 1, and 2, to read as follows:

8.177. MISSOURI CAPITOL POLICE OFFICERS, POWERS AND DUTIES. — 1. The director of the department of public safety shall employ Missouri capitol police officers for public safety at the seat of state government. Each Missouri capitol police officer, upon appointment, shall take and subscribe an oath of office to support the constitution and laws of the United States and the state of Missouri and shall receive a certificate of appointment, a copy of which shall be filed with the secretary of state, granting such police officers all the same powers of arrest held by other police officers to maintain order and preserve the peace in all state-owned or leased buildings, and the grounds thereof, at the seat of government and such buildings and grounds within the county which contains the seat of government.

2. The director of the department of public safety shall appoint a sufficient number of Missouri capitol police officers, with available appropriations, as appropriated specifically for the purpose designated in this subsection, so that the capitol grounds may be patrolled at all times, and that traffic and parking upon the capitol grounds and the grounds of other state buildings owned or leased within the capital city and the county which contains the seat of government may be properly controlled. Missouri capitol police officers may make arrests for the violation of parking and traffic regulations promulgated by the office of administration.

3. Missouri capitol police officers shall be authorized to arrest a person anywhere in the county that contains the state seat of government, when there is probable cause to believe the person committed a crime within capitol police jurisdiction or when a person commits a crime in the presence of an on-duty capitol police officer.

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, 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 when the requesting entity is required to obtain such information by any provision of state or federal law and pay a fee of not more than fourteen dollars per request for criminal history record information based on a fingerprint search when the requesting entity is required to obtain such information by any provision of state or federal law; provided that, when the requesting entity is not required to obtain such information by law, the requesting entity shall pay a fee of not

more than ten dollars per request for criminal history record information not based on a fingerprint search and pay a fee of not more than twenty dollars per request for 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, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other entities, and for the payment of such requests. 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 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.**]**

67.1809. LICENSURE, SUPERVISION, AND REGULATION OF PERSONS WHO ENGAGE IN THE BUSINESS OF TRANSPORTING PASSENGERS IN COMMERCE. — 1. The regional taxicab commission established under section 67.1804 may license, supervise, and regulate any person who engages in the business of transporting passengers in commerce, wholly within the regional taxicab district established in section 67.1802, in any motor vehicle designed or used to transport not more than eight passengers, including the driver. The powers granted to the regional taxicab commission under this section shall apply to the motor vehicles described in this subsection and to the persons owning or operating those vehicles:

(1) Whether or not the vehicles are equipped with a taximeter or use a taximeter; and

(2) Whether the vehicles are operated by a for-hire motor carrier of passengers or by a private motor carrier of passengers not for hire or compensation.

2. This section shall apply, notwithstanding any provisions of this chapter or of subsection 2 of section 390.126, RSMo, to the contrary, except that the vehicles described in subsection 1 of this section, and the operators of such vehicles, shall be licensed, supervised, and regulated by the state highways and transportation commission, as provided under section 226.008, RSMo, instead of the regional taxicab commission, whenever:

(1) Such motor vehicles transport passengers within the district in interstate commerce, and those interstate operations are subject to the powers of the state highways and transportation commission under section 226.008, RSMo;

(2) Such motor vehicles are operated exclusively by a not-for-profit corporation or governmental entity, whose passenger transportation within the regional taxicab district is subsidized, wholly or in part, with public transit funding provided by the state highways and transportation commission, the Federal Transit Administration, or both;

(3) Such vehicles transport one or more passengers on the public highways in a continuous journey from a place of origin within the regional taxicab district to a destination outside the district, or from a place of origin outside the district to a destination

within the district, either with or without a return trip to the point of origin. Such continuous transportation of passengers between points within and without the district is subject to regulation by the state highways and transportation commission, even if the journey includes temporary stops at one or more intermediate destinations within the boundaries of the district.

3. The provisions of subdivision (3) of subsection 2 of this section shall not limit the powers of the regional taxicab commission under this section to license, supervise, and regulate the transportation of any passenger whose journey by motor vehicle takes place wholly within the regional taxicab district, even if transported on the same vehicle with other passengers whose transportation, both within and without the boundaries of the district, is subject to the exclusive powers of the state highways and transportation commission. A motor carrier or driver who transports passengers subject to the powers of the regional taxicab commission, under subsection 1 of this section, on the same vehicle with passengers whose transportation is subject to the powers of the state highways and transportation commission, under subsection 2 of this section, shall comply with all applicable requirements of the regional taxicab commission and with all applicable requirements of the state highways and transportation commission.

4. No provision within this chapter shall be interpreted or construed as limiting the powers of the state highways and transportation commission and its enforcement personnel, the state highway patrol and its officers and personnel, or any other law enforcement officers or peace officers to enforce any safety requirements or hazardous materials regulations made applicable by law to the motor vehicles, drivers, or persons that own or operate any motor vehicles described in this section.

5. Every individual person, partnership, or corporation subject to licensing, regulation, and supervision by the regional taxicab commission under this section, with reference to any transportation of passengers by a motor vehicle previously authorized by a certificate or permit issued by the state highways and transportation commission under sections 390.051 or 390.061, RSMo, which certificate or permit was in active status and not suspended or revoked on August 27, 2005, according to the records of the state highways and transportation commission, is hereby deemed to be licensed, permitted, and authorized by the regional taxicab commission, and the vehicles and drivers used by such motor carriers are hereby deemed to be licensed, permitted, and authorized by the regional taxicab commission to operate and engage in the transportation of passengers within the regional taxicab district, to the same extent as they formerly were licensed, permitted, and authorized by the highways and transportation commission on August 27, 2005. Such motor carriers, drivers, and vehicles shall be exempted from applying for any license, certificate, permit, or other credential issued or required by the regional taxicab commission under sections 67.1800 to 67.1822, except that the regional taxicab commission may, after December 31, 2005, require such motor carriers and drivers to apply and pay the regular fees for annual renewals of such licenses, permits, certificates, or other credentials under uniform requirements applicable to all motor carriers, vehicles, and drivers operating within the regional taxicab district.

136.055. AGENT TO COLLECT MOTOR VEHICLE TAXES AND ISSUE LICENSES — FEES — SIGN REQUIRED. — 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer license sold, renewed or transferred — two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; and five dollars

beginning August 28, 2002, for those licenses biennially renewed pursuant to section 301.147, RSMo. Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or transferred — three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147, RSMo;

(2) For each application or transfer of title — two dollars and fifty cents beginning January 1, 1998;

(3) For each **instruction permit, nondriver license,** chauffeur's, operator's or driver's license **issued for a period of three years or less** — two dollars and fifty cents **[**beginning January 1, 1998; and four dollars beginning July 1, 2000;**]** and five dollars **[**beginning July 1, 2003,**]** for **[**six-year**]** licenses **or instruction permits** issued or renewed **for a period exceeding three years**;

(4) For each notice of lien processed — two dollars and fifty cents beginning August 28, 2000;

(5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception — two dollars.

2. All fees charged shall not exceed those in this section. Beginning July 1, 2003, the fees imposed by this section shall be collected by all permanent branch offices and all full-time or temporary offices maintained by the department of revenue.

3. Any person acting as agent of the department of revenue for the sale and issuance of licenses and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

4. The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the Missouri Legislature and charged by
this fee office were requested by the fee agents.

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;

(7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision**, or to any religious, educational, or charitable organization which has obtained an exemption from the payment of federal income taxes, provided the motor vehicles are used exclusively for religious, educational, or charitable purposes;** and

(8) Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, to another for which or whom such property is not exempt when immediately after the

lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the interstate compact agency. Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:

(a) The right of the interstate compact agency to use, control, and possess the property is terminated;

(b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and

(c) There are no provisions for reverter of the property within the limitation period for reverters.

144.025. TRANSACTIONS INVOLVING TRADE-IN OR REBATE, HOW COMPUTED — EXCEPTIONS — DEFINITIONS — AGRICULTURAL USE, ALLOWANCE. — 1. Notwithstanding any other provisions of law to the contrary, in any retail sale other than retail sales governed by subsections 4 and 5 of this section, where any article on which sales or use tax has been paid, credited, or otherwise satisfied or which was exempted or excluded from sales or use tax is taken in trade as a credit or part payment on the purchase price of the article being sold, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the actual allowance made for the article traded in or exchanged, if there is a bill of sale or other record showing the actual allowance made for the article traded in or exchanged. Where the purchaser of a motor vehicle, trailer, boat or outboard motor receives a rebate from the seller or manufacturer, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the amount of the rebate, if there is a bill of sale or other record showing the actual rebate given by the seller or manufacturer. Where the trade-in or exchange allowance plus any applicable rebate exceeds the purchase price of the purchased article there shall be no sales or use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard motors sold by the owner or holder of the properly assigned certificate of ownership if the seller purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within one hundred eighty days before or after the date of the sale of the original article and a **[**notarized**]** bill of sale showing the paid sale price is presented to the department of revenue at the time of licensing. A copy of the bill of sale shall be left with the licensing office. Where the subsequent motor vehicle, trailer, boat, or outboard motor is titled more than one hundred eighty days after the sale of the original motor vehicle, trailer, boat, or outboard motor, the allowance pursuant to this section shall be made if the person titling such article establishes that the purchase or contract to purchase was finalized prior to the expiration of the one hundred eighty-day period.

2. As used in this section, the term "boat" includes all motorboats and vessels, as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

3. As used in this section, the term "motor vehicle" includes motor vehicles as defined in section 301.010, RSMo, recreational vehicles as defined in section 700.010, RSMo, or a combination of a truck as defined in section 301.010, RSMo, and a trailer as defined in section 301.010, RSMo.

4. The provisions of subsection 1 of this section shall not apply to retail sales of manufactured homes in which the purchaser receives a document known as the "Manufacturer's Statement of Origin" for purposes of obtaining a title to the manufactured home from the department of revenue of this state or from the appropriate agency or officer of any other state.

5. Any purchaser of a motor vehicle or trailer used for agricultural use by the purchaser shall be allowed to use as an allowance to offset the sales and use tax liability towards the

purchase of the motor vehicle or trailer any grain or livestock produced or raised by the purchaser. The director of revenue may prescribe forms for compliance with this subsection.

168.133. CRIMINAL BACKGROUND CHECKS REQUIRED FOR SCHOOL PERSONNEL, WHEN, PROCEDURE — RULEMAKING AUTHORITY. — 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses. **The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate busses pending the result of the criminal background check.** For bus drivers, the background check **shall be** conducted **[**by the department of revenue for the issuance or renewal of a school bus permit under section 302.272, RSMo, shall satisfy the background check requirements of this section**] on drivers employed by the school district or employed by a pupil transportation company under contract with the school district**.

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

5. If, as a result of the criminal history background check mandated by this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, RSMo, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

6. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

7. Nothing in this section shall be construed to alter the standards for suspension, denial, or revocation of a certificate issued pursuant to this chapter.

8. The state board of education may promulgate rules for criminal history background checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and void.

[9. The provisions of this section shall become effective January 1, 2005.**]**

227.363. RICHARD L. HARRIMAN HIGHWAY DESIGNATED IN CLAY COUNTY. — The portion of state route H in Clay County from the intersection of state route H and Richfield Road north to the intersection of state route H and state route B shall be designated the "Richard L. Harriman Highway". Costs for such designation shall be paid by private donations.

300.330. VEHICLE SHALL NOT BE DRIVEN ON A SIDEWALK — PROHIBITION ON OBSTRUCTION OF BICYCLE LANES — DRIVERS TO YIELD TO BICYCLES IN DESIGNATED BICYCLE LANES. — The driver of a **motor** vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway. **A designated bicycle lane shall not be obstructed by a parked or standing motor vehicle or other stationary object. A motor vehicle may be driven in a designated bicycle lane only for the purpose of a lawful maneuver to cross the lane or provide for safe travel. In making an otherwise lawful maneuver that requires traveling in or crossing a designated bicycle lane, the driver of a motor vehicle shall yield to any bicycle in the lane. As used in this section, the term "designated bicycle lane" shall mean a portion of the roadway or highway which has been designated by the governing body having jurisdiction over such roadway or highway by striping with signing or striping with pavement markings for the preferential or exclusive use of bicycles.**

300.411. DISTANCE TO BE MAINTAINED WHEN OVERTAKING A BICYCLE. — The operator of a motor vehicle overtaking a bicycle proceeding in the same direction on the roadway, as defined in section 300.010, RSMo, shall leave a safe distance when passing the bicycle, and shall maintain clearance until safely past the overtaken bicycle.

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to

or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, RSMo, does not have more than four axles, and does not pull a trailer which has more than two axles. **Harvesting equipment which is used specifically for cutting, felling, trimming, delimbing, debarking, chipping, skidding, loading, unloading, and stacking may be transported on a local log truck.** A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, RSMo, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220, RSMo;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(33) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(34) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(35) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(36) "Motorcycle", a motor vehicle operated on two wheels;

(37) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(38) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(39) "Municipality", any city, town or village, whether incorporated or not;

(40) "Nonresident", a resident of a state or country other than the state of Missouri;

(41) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(42) "Operator", any person who operates or drives a motor vehicle;

(43) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(44) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(45) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(46) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(47) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(48) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(49) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

(50) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(51) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) Has been damaged to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds seventy-five percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim for loss due to damage or theft;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

(52) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(53) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(54) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(55) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term "specially constructed motor vehicle" includes kit vehicles;

(56) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(57) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(58) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(59) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers

as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(60) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(61) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(62) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(63) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(64) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(65) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(66) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(67) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.020. 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, or prior salvage as referenced in section 301.573, 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 **subsection 9 of** section 301.190. **If an insurance company which pays a claim on a salvage vehicle as defined in section 301.010 and the insured is retaining ownership of the vehicle, as prior salvage, the vehicle shall only be required to meet the examination requirements pursuant to subsection 10 of 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 or which pays a claim on a salvage vehicle as defined in section 301.010 and the insured is retaining ownership of the vehicle, 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 4 of this section to obtain a **[**reconstructed**] prior salvage** motor vehicle certificate of ownership or documents and fees as otherwise required by law to obtain a salvage certificate of ownership, from 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.

301.025. PERSONAL PROPERTY TAXES AND FEDERAL HEAVY VEHICLE USE TAX, PAID WHEN — TAX RECEIPT FORMS — FAILURE TO PAY PERSONAL PROPERTY TAX, EFFECT OF, NOTIFICATION REQUIREMENTS, REINSTATEMENT FEE, APPEALS — RULEMAKING, PROCEDURE. — 1. No state registration license to operate any motor vehicle in this state shall be issued unless the application for license of a motor vehicle or trailer is accompanied by a tax receipt for the tax year which immediately precedes the year in which the vehicle's or trailer's registration is due and which reflects that all taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township collector of the county or township in which the applicant's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant**,** or **a statement certified by the county or township collector for such previous year** that no such taxes were **assessed or** due **and, the applicant has no unpaid taxes on the collector's tax roll for any subsequent year** or, if the applicant is not a resident of this state and serving in the armed forces of the United States, the application is accompanied by a leave and earnings statement from such person verifying such status or, if the applicant is an organization described pursuant to subdivision (5) of section 137.100, RSMo, or subsection 1 of section 137.101, RSMo, the application is accompanied by a document, in a form approved by the director, verifying that the organization is registered with the department of revenue or is determined by the internal revenue service to be a tax-exempt entity. If the director of the department of revenue has been notified by the assessor pursuant to subsection 2 of section 137.101, RSMo, that the applicant's personal property is not tax exempt, then the organization's application shall be accompanied by a statement certified by the county or township collector of the county or township in which the organization's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the organization. In the event the registration is a renewal of a registration made two or three years previously, the application shall be accompanied by proof that taxes

were not due or have been paid for the two or three years which immediately precede the year in which the motor vehicle's or trailer's registration is due. The county or township collector shall not be required to issue a receipt **or certified statement that taxes were not assessed or due** for the immediately preceding tax year until all personal property taxes, including all **current and** delinquent taxes **[**currently due**]**, are paid. If the applicant was a resident of another county of this state in the applicable preceding years, he or she must submit to the collector in the county or township of residence proof that the personal property tax was paid in the applicable tax years. Every county and township collector shall give each person a tax receipt or a certified statement of tangible personal property taxes paid. The receipt issued by the county collector in any county of the first classification with a charter form of government which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand inhabitants which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any county of the first classification without a charter form of government with a population of at least one hundred ten thousand but less than one hundred fifty thousand inhabitants shall be determined null and void if the person paying tangible personal property taxes issues or passes a check or other similar sight order which is returned to the collector because the account upon which the check or order was drawn was closed or did not have sufficient funds at the time of presentation for payment by the collector to meet the face amount of the check or order. The collector may assess and collect in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order whichever amount is greater to be deposited in the county general revenue fund, but in no event shall such penalty imposed exceed one hundred dollars. The collector may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the collector unless the remittance is in the form of a cashier's check, certified check or money order. If a person does not comply with the provisions of this section, a tax receipt issued pursuant to this section is null and void and no state registration license shall be issued or renewed. Where no such taxes are due each such collector shall, upon request, certify such fact and transmit such statement to the person making the request. Each receipt or statement shall describe by type the total number of motor vehicles on which personal property taxes were paid, and no renewal of any state registration license shall be issued to any person for a number greater than that shown on his or her tax receipt or statement except for a vehicle which was purchased without another vehicle being traded therefor, or for a vehicle previously registered in another state, provided the application for title or other evidence shows that the date the vehicle was purchased or was first registered in this state was such that no personal property tax was owed on such vehicle as of the date of the last tax receipt or certified statement prior to the renewal. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms. If electronic data is not available, residents of counties with a township form of government and with township collectors shall present personal property tax receipts which have been paid for the preceding two years when registering under this section.

2. Every county collector in counties with a population of over six hundred thousand and less than nine hundred thousand shall give priority to issuing tax receipts or certified statements pursuant to this section for any person whose motor vehicle registration expires in January. Such collector shall send tax receipts or certified statements for personal property taxes for the previous year within three days to any person who pays the person's personal property tax in person, and within twenty working days, if the payment is made by mail. Any person wishing to have priority pursuant to this subsection shall notify the collector at the time of payment of the property taxes that a motor vehicle registration expires in January. Any person purchasing a new

vehicle in December and licensing such vehicle in January of the following year may use the personal property tax receipt of the prior year as proof of payment.

3. In addition to all other requirements, the director of revenue shall not register any vehicle subject to the heavy vehicle use tax imposed by Section 4481 of the Internal Revenue Code of 1954 unless the applicant presents proof of payment, or that such tax is not owing, in such form as may be prescribed by the United States Secretary of the Treasury. No proof of payment of such tax shall be required by the director until the form for proof of payment has been prescribed by the Secretary of the Treasury.

4. Beginning July 1, 2000, a county or township collector may notify, by ordinary mail, any owner of a motor vehicle for which personal property taxes have not been paid that if full payment is not received within thirty days the collector may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the collector by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. Thereafter, if the owner fails to timely pay such taxes the collector may notify the director of revenue of such failure. Such notification shall be on forms designed and provided by the department of revenue and shall list the motor vehicle owner's full name, including middle initial, the owner's address, and the year, make, model and vehicle identification number of such motor vehicle. Upon receipt of this notification the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in effect until the department of revenue receives notification from a county or township collector that the personal property taxes have been paid in full. Upon the owner furnishing proof of payment of such taxes and paying a twenty dollar reinstatement fee to the director of revenue the motor vehicle or vehicles registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of personal property tax the owner so aggrieved may appeal to the circuit court of the county of his or her residence for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

5. Beginning July 1, 2005, a city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify, by ordinary mail, any owner of a motor vehicle who is delinquent in payment of vehicle-related fees and fines that if full payment is not received within thirty days, the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. If the vehicle-related fees and fines are assessed against a car that is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time the fees or fines are assessed, the rental or leasing company may rebut the presumption by providing the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county with a copy of the rental or lease agreement in effect at the time the fees or fines were assessed. A rental or leasing company shall not be charged for fees or fines under this subsection, nor shall the registration of a vehicle be suspended, unless prior written notice of the fees or fines has been given to that rental or leasing company by ordinary mail at the address appearing on the registration and the rental or leasing company has failed to provide the rental or lease agreement copy within fifteen

days of receipt of such notice. Any notification to a rental or leasing company that is returned to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. For the purpose of this section, "vehicle-related fees and fines" includes, but is not limited to, traffic violation fines, parking violation fines, vehicle towing, storage and immobilization fees, and any late payment penalties, other fees, and court costs associated with the adjudication or collection of those fines.

6. If after notification under subsection 5 of this section the vehicle owner fails to pay such vehicle-related fees and fines to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county within thirty days from the date of such notice, the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify the director of revenue of such failure. Such notification shall be on forms or in an electronic format approved by the department of revenue and shall list the vehicle owner's full name and address, and the year, make, model, and vehicle identification number of such motor vehicle and such other information as the director shall require.

7. Upon receipt of notification under subsection 5 of this section, the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in effect until the department of revenue receives notification from a city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county that the vehicle-related fees or fines have been paid in full. Upon the owner furnishing proof of payment of such fees and fines and paying a twenty dollar reinstatement fee to the director of revenue the motor vehicle registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of vehicle-related fees or fines the owner so aggrieved may appeal to the circuit court of the county where the violation occurred for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

8. The city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county shall reimburse the department of revenue for all administrative costs associated with the administration of subsections 5 to 8 of this section.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

301.129. ADVISORY COMMITTEE, DUTIES, MEMBERS, PUBLIC MEETINGS, EXPENSES, DISSOLUTION OF COMMITTEE. — There is established in this section an advisory committee for the department of revenue, which shall exist solely to develop uniform designs and common colors for motor vehicle license plates issued under this chapter and to determine appropriate license plate parameters for all license plates issued under this chapter. The advisory committee may adopt more than one type of design and color scheme for license plates issued under this

chapter; however, each license plate of a distinct type shall be uniform in design and color scheme with all other license plates of that distinct type. The specifications for the fully reflective material used for the plates, as required by section 301.130, shall be determined by the committee. Such plates shall meet any specific requirements prescribed in this chapter. The advisory committee shall consist of the director of revenue, the superintendent of the highway patrol, the correctional enterprises administrator, and the respective chairpersons of both the senate and house of representatives transportation committees. Notwithstanding section 226.200, RSMo, to the contrary, the general assembly may appropriate state highways and transportation department funds for the requirements of section 301.130 and this section. Prior to **[**April 1, 2006**] January 1, 2007**, the committee shall meet, select a chairman from among their members, and develop uniform design and license plate parameters for the motor vehicle license plates issued under this chapter. Prior to determining the final design of the plates, the committee shall hold at least three public meetings in different areas of the state to invite public input on the final design. Members of the committee shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties under this section out of funds appropriated for that purpose. The committee shall direct the director of revenue to implement its final design of the uniform motor vehicle license plates and any specific parameters for all license plates developed by the committee not later than **[**April 1, 2006**] January 1, 2007**. The committee shall be dissolved upon completion of its duties under this section.

301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided by this section. Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, or with the state highways and transportation commission as otherwise provided in this chapter, but only one license plate shall be issued for each such vehicle except as provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

4. The plates issued to manufacturers and dealers shall bear the letter "D" preceding the number, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue or the state highways and transportation commission and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 3 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually or biennially a tab or set of tabs as provided by law as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. Beginning January 1, **[**2009**]** **2010**, the **[**numbers**]** **director may prescribe any additional information** recorded on the tab or tabs **[**must be the same numbers that appear on**]** **to ensure that the tab or tabs positively correlate with** the license plate or plates issued by the department of revenue **[**that are displayed on the**]** **for such** vehicle. Such tabs shall be produced in each license bureau office.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director of revenue when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as otherwise provided in this section, the director of revenue shall issue plates for a period of at least six years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the highways and transportation commission shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the highways and transportation commission upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the highways and transportation commission shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the highways and transportation commission and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated,

the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue and the highways and transportation commission may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.

9. Commencing January 1, **[**2007**] 2009**, the director of revenue shall cause to be reissued new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire between January 1, **[**2007**] 2009**, and December 31, **[**2009**] 2011**, applicants for registration of trailers or semitrailers with license plates that expire between January 1, **[**2007**] 2009**, and December 31, **[**2009**] 2011**, and applicants for registration of vehicles that are to be issued new license plates shall pay an additional fee **[**of up to two dollars and fifty cents**]**, based on the actual cost of the reissuance, to cover the cost of the newly reissued plates required by this subsection. **[**The additional fee, based on the actual cost, prescribed by this subsection shall only be one dollar and twenty-five cents for issuance of one new plate for vehicles requiring only one license plate pursuant to this section.**]** The additional fee **[**of two dollars and fifty cents**]** prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 and specialized license plates are exempt from the provisions of this subsection.

[301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided by this section. Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, but only one license plate shall be issued for each such vehicle except as provided in this subsection. The applicant for registration of any property-carrying commercial

motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

4. The plates issued to manufacturers and dealers shall bear the letter "D" preceding the number, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be July 11, 2005operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 5 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually a tab or set of tabs as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as provided in subdivision (1) of this subsection, the director of revenue shall issue plates for a period of at least five years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the director of revenue shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the director of revenue upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highway reciprocity commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the director of revenue shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the director and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highway reciprocity commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for

any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.**]**

301.190. CERTIFICATE OF OWNERSHIP — APPLICATION, CONTENTS — SPECIAL REQUIREMENTS, CERTAIN VEHICLES — FEES — FAILURE TO OBTAIN WITHIN TIME LIMIT, DELINQUENCY PENALTY — DURATION OF CERTIFICATE — UNLAWFUL TO OPERATE WITHOUT CERTIFICATE — CERTAIN VEHICLES BROUGHT INTO STATE IN A WRECKED OR DAMAGED CONDITION OR AFTER BEING TOWED, INSPECTION — CERTAIN VEHICLES PREVIOUSLY REGISTERED IN OTHER STATES, DESIGNATION — RECONSTRUCTED MOTOR VEHICLES, PROCEDURE. — 1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, RSMo, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making such application.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, RSMo, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's title and whether the transferor's odometer mileage statement executed pursuant to section 407.536, RSMo, indicated that the true mileage is materially different from the number of miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from

the department of revenue.". On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

(1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or

(2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of one hundred dollars before November 1, 2003, and not to exceed a total of two hundred dollars on or after November 1, 2003, shall be imposed, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer or has sold a vehicle without obtaining a certificate, he shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section, together with all fees, charges and payments which he should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any applicant for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been issued as herein provided.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of revenue shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The

vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri **or as required by section 301.020**, it shall be accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307, RSMo. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365, RSMo, for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365, RSMo. If the vehicle is also to be registered in Missouri, the safety and emissions inspections required in chapter 307, RSMo, shall be completed and only the fees required by sections 307.365 and 307.366, RSMo, shall be charged to the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle pursuant to another state's abandoned motor vehicle procedures shall, in lieu of the inspection required by subsection 10 of this section, be inspected by the Missouri state highway patrol in accordance with subsection 9 of this section. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.

12. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as a reconstructed motor vehicle, motor change vehicle, or specially constructed motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation.

13. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

14. The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section.

15. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, manufactured forty or more years prior to the current model year, and which has a value of three thousand dollars or less shall be accompanied by:

(1) A proper affidavit submitted by the owner explaining how the motor vehicle or trailer was acquired and, if applicable, the reasons a valid certificate of ownership cannot be furnished;

(2) Photocopies of receipts, bills of sale establishing ownership, or titles, and the source of all major component parts used to rebuild the vehicle;

(3) A fee of one hundred fifty dollars in addition to the fees described in subsection 5 of this section. Such fee shall be deposited in the state treasury to the credit of the state highways and transportation department fund; and

(4) An inspection certificate, other than a motor vehicle examination certificate required under subsection 9 of this section, completed and issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The inspection performed by the highway patrol or other authorized local law enforcement agency shall include a check for stolen vehicles.

The department of revenue shall issue the owner a certificate of ownership designated with the words "Reconstructed Motor Vehicle" and deliver such certificate of ownership in accordance with the provisions of this chapter. Notwithstanding subsection 9 of this section, no owner of a reconstructed motor vehicle described in this subsection shall be required to obtain a vehicle examination certificate issued by the Missouri state highway patrol.

301.215. CERTIFICATE OF TITLE ON REPOSSESSION UNDER MORTGAGE, ISSUANCE — CONTENTS — APPLICATION — NOTICE — RULEMAKING AUTHORITY. — 1. When the holder of any indebtedness secured by a security agreement or other contract for security covering a motor vehicle or trailer repossesses the motor vehicle or trailer either by legal process or in accordance with the terms of a contract authorizing the repossession of the vehicle without legal process, the holder may obtain a certificate of ownership from the director of revenue upon presentation of **[**(1)**]** an application which shall be upon a blank form furnished by the director of revenue and shall contain a full description of the motor vehicle or trailer and the manufacturer's or other identifying number**[**; (2)**] and** an affidavit of the holder**, certified under penalties of perjury for making a false statement to a public official,** that the debtor defaulted in payment of the debt, and that the holder repossessed the motor vehicle or trailer either by legal process or in accordance with the terms of the contract, and the specific address where the vehicle or trailer is held**[**; and (3) the original or a conformed or photostatic copy of the original of the security agreement or other contract for security and the instrument or instruments evidencing the indebtedness secured by the security agreement or other contract for security. The director may by regulation prescribe for the inclusion in either or both the application or affidavit any other information that he from time to time deems necessary or advisable and may prescribe that the affidavit be part of the application**]**. **Such affidavit shall also state that the lienholder has the written consent from all owners or lienholders of record to repossess the vehicle or has provided all the owners or lienholders with written notice of the repossession. The lienholder shall first give ten days' written notice by first class United States mail postage prepaid to each of the owners and other lienholders, if any, of the motor vehicle or trailer at each of their last mailing addresses as shown by the last prior certificate of ownership, if any issued on the motor vehicle or trailer, that an application for a repossessed title will be made.**

2. Upon the holder's presentation of the papers and payment of a fee of ten dollars, the director of revenue, if he is satisfied with the genuineness of the papers, shall issue and deliver to the holder a certificate of ownership which shall be in its usual form except it shall be clearly captioned "Repossessed Title"**[**; provided, however, that unless the application is accompanied by the written consent, acknowledged before an officer authorized to take acknowledgments, of the owners and other lienholders, if any, of the motor vehicle or trailer as shown by the last prior certificate of ownership, if any, issued on the motor vehicle or trailer, for the issuance of a repossessed title to the applicant, no such repossessed title may be issued by the director of revenue unless the director shall first give ten days' written notice by first class United States mail postage prepaid to each of the owners and other lienholders, if any, of the motor vehicle or trailer at each of their last mailing addresses as shown by the last prior certificate of ownership, if any, issued on the motor vehicle or trailer, that an application for a repossessed title has been made and the date the repossessed title will be issued, and the notice shall be accompanied by a copy, photostatic or otherwise, of each the application and affidavit. The application for repossessed title may be withdrawn by the applicant at any time before the granting thereof**]**. Each repossessed title so issued shall for all purposes be treated as an original certificate of ownership

and shall supersede the outstanding certificate of ownership, if any, and duplicates thereof, if any, on the motor vehicle or trailer, all of which shall become null and void.

3. In any case where there is no certificate of ownership or duplicate thereof outstanding in the name of the debtor on the repossessed motor vehicle or trailer, the director of revenue shall issue a repossessed title to the holder and shall proceed to collect all unpaid fees, taxes, charges and penalties from the debtor as provided in section 301.190.

4. The director of revenue may prescribe rules and regulations for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

301.290. CORRECTIONAL ENTERPRISES TO MANUFACTURE PLATES AND HIGHWAY SIGNS — MONEY RECEIVED FOR MANUFACTURING PLATES AND SIGNS, HOW DEPOSITED. — 1. Correctional enterprises of the department of corrections shall purchase, erect and maintain all of the machinery and equipment necessary for the manufacture of the license plates and tabs issued by the director of revenue, and of signs used by the state transportation department. Beginning on January 1, **[**2009**] 2010**, correctional enterprises shall no longer erect and maintain tabs for the department of revenue.

2. The director of revenue shall procure all plates issued by him, and the state transportation department shall procure all signs used by it from correctional enterprises, unless an emergency arises and correctional enterprises cannot furnish the plates, tabs or signs.

3. Correctional enterprises shall furnish the plates and signs at such a price as will not exceed the price at which such plates and signs may be obtained upon the open market, but in no event shall such price be less than the cost of manufacture, including labor and materials.

4. All moneys derived from the sale of the plates, tabs and signs shall be paid into the state treasury to the credit of the working capital revolving fund as provided in section 217.595, RSMo.

301.300. REPLACEMENT OF LOST, STOLEN OR DAMAGED CERTIFICATES, PLATES, OR TABS, PROCEDURE TO OBTAIN REPLACEMENT OR DUPLICATES, FEE — MULTIYEAR PLATES FEE. — 1. In event of the loss, theft, mutilation or destruction of any certificate of ownership, number plate, tab or set of tabs issued by the director of revenue, the lawful holder thereof shall, within five days, file with the director of revenue, an affidavit showing such fact, and shall, on the payment of a fee of eight dollars and fifty cents, obtain a duplicate or replacement of such plate, certificate, tab or set of tabs. Any duplicate certificate issued for any "motor vehicle primarily for business use", as defined in section 301.010, shall be issued only to the owner of record.

2. Upon filing affidavit of lost, stolen, mutilated or destroyed certificate of registration, the director of revenue shall issue to the lawful owner a duplicate or replacement thereof upon payment of a fee of eight dollars and fifty cents.

3. Vehicle owners who elect not to transfer or renew multiyear plates shall be charged a fee equal to that charged for a lost plate in addition to the registration fee prescribed by law at the time the new plate or plates are issued.

4. Notwithstanding subsection 1 of this section, a new or used motor vehicle dealer may obtain a duplicate or replacement title in the owner's name if the owner's title has been lost, stolen, mutilated, or destroyed and is not available for assignment. In order to

obtain the duplicate or replacement title from the department of revenue, the licensed dealer shall procure a power of attorney from the owner authorizing the dealer to obtain a duplicate or replacement title in the owner's name and sign any title assignments on the owner's behalf. The application to the department of revenue for the duplicate or replacement title shall be accompanied by the executed power of attorney, or a copy thereof, and the application shall contain the appropriate mailing address of the dealer. The director of the department of revenue is authorized to make all necessary rules and regulations for the administration of this subsection, and shall design all necessary forms required by this subsection. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

301.301. STOLEN LICENSE PLATE TABS, REPLACEMENT AT NO COST, WHEN, PROCEDURE, LIMITATION. — Any person replacing a stolen license plate tab may receive at no cost up to two **sets of two** license plate tabs per year when the application for the replacement tab is accompanied with a police report that is corresponding with the stolen license plate tab.

301.302. MISSING LICENSE PLATE TAB, NO CITATION ISSUED, WHEN. — A citation shall not be issued to any person stopped by law enforcement for a missing license plate tab or tabs if such person indicates that the tab or tabs have been stolen and a check on such person's vehicle registration reveals that the vehicle is properly registered. A law enforcement officer may issue a warning under these circumstances. In the event a citation is improperly issued to a person for missing tabs when the requirements of this section are met, any court costs shall be waived.

301.567. ADVERTISING STANDARDS, VIOLATION OF, WHEN. — 1. For purposes of this section, a violation of any of the following advertising standards shall be deemed an attempt by the advertising dealer to obtain a fee or other compensation by fraud, deception or misrepresentation in violation of section 301.562:

(1) A motor vehicle shall not be advertised as new, either by express terms or implication, unless it is a "new motor vehicle" as defined in section 301.550;

(2) When advertising any motor vehicle which is not a new motor vehicle, such advertisement must expressly identify that the motor vehicle is a used motor vehicle by express use of the term "used", or by such other term as is commonly understood to mean that the vehicle is used;

(3) Any terms, conditions, and disclaimers relating to the advertised motor vehicle's price or financing options shall be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but not be used as a means of contradicting or changing the meaning of an advertised statement;

(4) The expiration date, if any, of an advertised sale or vehicle price shall be clearly and conspicuously disclosed. In the absence of such disclosure, the advertised sale or vehicle price shall be deemed effective so long as such vehicles remain in the advertising dealership's inventory;

(5) The terms "list price", "sticker price", or "suggested retail price" shall be used only in reference to the manufacturer's suggested retail price for new motor vehicles, and, if used, shall

be accompanied by a clear and conspicuous disclosure that such terms represent the "manufacturer's suggested retail price" of the advertised vehicle;

(6) Terms such as "at cost", "$..... above cost" shall not be used in advertisements because of the difficulty in determining a dealer's actual net cost at the time of the sale. Terms such as "invoice price", "$..... over invoice" may be used, provided that the invoice referred to is the manufacturer's factory invoice for a new motor vehicle and the invoice is available for customer inspection. For purposes of this section, "manufacturer's factory invoice" means that document supplied by the manufacturer to the dealer listing the manufacturer's charge to the dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any governmental charges;

(7) When the price or financing terms of a motor vehicle are advertised, the vehicle shall be fully identified as to year, make, and model. In addition, in advertisements placed by individual dealers and not line-make marketing groups, the advertised price or credit terms shall include all charges which the buyer must pay to the dealer, except buyer-selected options and state and local taxes. If a processing fee or freight or destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charge must be clearly and conspicuously disclosed within the advertisement;

(8) Advertisements which offer to match or better any competitors' prices shall not be used;

(9) Advertisements of "dealer rebates" shall not be used, however, this shall not be deemed to prohibit the advertising of manufacturer rebates, so long as all material terms of such rebates are clearly and conspicuously disclosed;

(10) "Free", "at no cost" shall not be used if any purchase is required to qualify for the "free" item, merchandise, or service;

(11) "Bait advertising", in which an advertiser may have no intention to sell at the prices or terms advertised, shall not be used. Bait advertising shall include, but not be limited to, the following examples:

(a) Not having available for sale the advertised motor vehicles at the advertised prices. If a specific vehicle is advertised, the dealer shall be in possession of a reasonable supply of such vehicles, and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, such limitations shall be stated in the advertisement;

(b) Advertising a motor vehicle at a specified price, including such terms as "as low as $.....", but having available for sale only vehicles equipped with dealer-added cost options which increase the selling price above the advertised price;

(12) Any reference to monthly payments, down payments, or other reference to financing or leasing information shall be accompanied by a clear and conspicuous disclosure of the following:

(a) Whether the payment or other information relates to a financing or a lease transaction;

(b) If the payment or other information relates to a financing transaction, the minimum down payment, annual percentage interest rate, and number of payments necessary to obtain the advertised payment amount must be disclosed, in addition to any special qualifications required for obtaining the advertised terms including, but not limited to, "first-time buyer" discounts, "college graduate" discounts, and a statement concerning whether the advertised terms are subject to credit approval;

(c) If the payment or other information relates to a lease transaction, the total amount due from the purchaser at signing with such costs broken down and identified by category, lease term expressed in number of months, whether the lease is closed-end or open-end, and total cost to the lessee over the lease term in dollars;

(13) Any advertisement which states or implies that the advertising dealer has a special arrangement or relationship with the distributor or manufacturer, as compared to similarly situated dealers, shall not be used;

(14) Any advertisement which, in the circumstances under which it is made or applied, is false, deceptive, or misleading shall not be used;

(15) No abbreviations for industry words or phrases shall be used in any advertisement unless such abbreviations are accompanied by the fully spelled or spoken words or phrases.

2. The requirements of this section shall apply regardless of whether a dealer advertises by means of print, broadcast, or electronic media, or direct mail. **If the advertisement is by means of a broadcast or print media, a dealer may provide the disclaimers and disclosures required under subdivision (3) of subsection 1 of this section by reference to an Internet web page or toll-free telephone number containing the information required to be disclosed.**

3. Dealers shall clearly and conspicuously identify themselves in each advertisement by use of a dealership name which complies with subsection 6 of section 301.560.

301.894. PURCHASE OR TRADE OF MOTOR VEHICLES WITH CERTIFICATES OF TITLE, REQUIREMENTS — RESALE OF SUCH VEHICLES, REQUIREMENTS — DEALER LIABILITY, WHEN — SELLER MISREPRESENTATION, LIABILITY. — 1. Notwithstanding the provisions of sections 301.200 and 301.210, any person licensed as a motor vehicle dealer under sections 301.550 to 301.573 shall be authorized to purchase or accept in trade any motor vehicle for which there has been issued a certificate of title, and to receive such vehicle subject to any existing liens thereon created and perfected under sections 301.600 to 301.660 provided the licensed dealer receives the following:

(1) A signed written contract between the licensed dealer and the owner of the vehicle; and

(2) Physical delivery of the vehicle to the licensed dealer; and

(3) A power of attorney from the owner to the licensed dealer, in accordance with subsection 4 of section 301.300, authorizing the licensed dealer to obtain a duplicate or replacement title in the owner's name and sign any title assignments on the owner's behalf.

2. If the dealer complies with the requirements of subsection 1 of this section, the sale or trade of the vehicle to the dealer shall be considered final.

3. If a licensed dealer complies with the requirements of subsection 1 of this section, the licensed dealer may sell such vehicle prior to receiving and assigning to the purchaser the certificate of title, provided such dealer complies with the following:

(1) All outstanding liens created on the vehicle pursuant to section 301.600 to 301.660 have been paid in full, and the dealer provides a copy of proof or other evidence to the purchaser; and

(2) The dealer has obtained proof or other evidence from the department of revenue confirming that no outstanding child support liens exist upon the vehicle at the time of sale and provides a copy of said proof or other evidence to the purchaser; and

(3) The dealer has obtained proof or other evidence from the department of revenue confirming that all applicable state sales tax has been satisfied on the sale of the vehicle to the previous owner and provides a copy of said proof or other evidence to the purchaser; and

(4) The dealer has signed and submitted an application for duplicate or replacement title for the vehicle pursuant to subsection 4 of section 301.300 and provides a copy of the application to the purchaser, along with a copy of the power of attorney required under subsection 1 of this section.

4. Following a sale or other transaction in which a certificate of title has not been assigned from the owner to the dealer, a licensed dealer shall, within five business days, apply for a duplicate or replacement title. Upon receipt of a duplicate or replacement title applied for pursuant to subsection 4 of section 301.300, the dealer shall assign and deliver said certificate of title to the purchaser of the vehicle within five business days. The dealer shall maintain proof of the assignment and delivery of the certificate of title to the purchaser. For purposes of this subsection, a dealer shall be deemed to have delivered the certificate of title to the purchaser upon either:

(1) Physical delivery of the certificate of title to any of the purchasers identified in the contract with the dealer; or

(2) Mailing of the certificate, postage prepaid, return receipt requested, to any of the purchasers at any of their addresses identified in the contract with the dealer.

5. If a dealer fails to comply with subsection 3 of this section, and the purchaser of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser of the vehicle for actual damages, plus court costs and reasonable attorney fees.

6. If a dealer fails to comply with subsection 4 of this section, and the purchaser of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser of the vehicle for actual damages, plus court costs and reasonable attorney fees. If the dealer cannot be found by the purchaser after making reasonable attempts, and thereby fails to assign and deliver the duplicate or replacement certificate of title to the purchaser, as required by subsection 4 of this section, then the purchaser may deliver to the director a copy of the contract for sale of the vehicle, a copy of the application for duplicate title provided by the dealer to the purchaser, a copy of the secure power of attorney allowing the dealer to assign the duplicate title, and the proof or other evidence obtained by the purchaser from the dealer under subsection 3 of this section. Thereafter, the director shall mail by certified mail, return receipt requested, a notice to the dealer at the last address given to the department by that dealer. That notice shall inform the dealer that the director intends to cancel any prior certificate of title issued to the dealer on the vehicle and issue to the purchaser a certificate of title in the name of the purchaser, subject to any liens incurred by the purchaser in connection with the purchase of the vehicle, unless the dealer, within ten business days from the date of the director's notice, files with the director a written objection to the director taking such action. If the dealer does file a timely, written objection with the director, then the director shall not take any further action without an order from a court of competent jurisdiction. However, if the dealer does not file a timely, written objection with the director, then the director shall cancel the prior certificate of title issued to the dealer on the vehicle and issue a certificate of title to the purchaser of the vehicle, subject to any liens incurred by the purchaser in connection with the purchase of the vehicle and subject to the purchaser satisfying all applicable taxes and fees associated with registering the vehicle.

7. If a seller fraudulently misrepresents to a dealer that the seller is the owner of a vehicle and the dealer or any subsequent purchaser is thereby damaged, then the seller shall be liable to the dealer and any subsequent purchaser for actual damages, plus court costs and reasonable attorney fees.

8. When a lienholder is damaged as a result of acts or omissions by the dealer to the lienholder or any party covered by subsections 5, 6, and 7 of this section, or by any combination of claims under this subsection, then the dealer shall be liable to the lienholder for actual damages, plus court costs and reasonable attorney fees.

9. No court costs or attorney fees shall be awarded under this section unless, prior to filing any such action, the following conditions have been met:

(1) The aggrieved party seeking damages has delivered an itemized written demand of the party's actual damages to the party from whom damages are sought; and

(2) The party from whom damages are sought has not satisfied the written demand within thirty days after receipt of the written demand.

302.177. LICENSES, ISSUANCE AND RENEWAL, DURATION, FEES. — 1. **[**To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of thirty dollars; except that, no license shall be issued if an applicant's license is currently suspended, taken up, canceled, revoked, or deposited in lieu of bail.

2. To all applicants for a license or renewal who are between twenty-one and sixty-nine years of age, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of fifteen dollars; except that, no license shall be issued if an applicant's license is currently suspended, taken up, canceled, revoked, or deposited in lieu of bail.

3. All licenses issued pursuant to subsections 1 and 2 of this section shall expire on the applicant's birthday in the sixth year after issuance and must be renewed on or before the date of expiration, which date shall be shown on the license. The director shall have the authority to stagger the expiration date of driver's licenses and nondriver's licenses being issued or renewed over a six-year period.

4. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are between eighteen and twenty-one years of age or greater than sixty-nine years of age, or, beginning September 30, 2005, to an applicant for such license containing a school bus endorsement issued pursuant to section 302.272, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of fifteen dollars.

5. To all other applicants for a license or renewal less than twenty-one years of age or greater than sixty-nine years of age who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of seven dollars and fifty cents. All licenses issued pursuant to this subsection and subsection 4 of this section or, beginning September 30, 2005, to an applicant for a license to transport persons or property which contains a school bus endorsement issued pursuant to section 302.272, shall expire on the applicant's birthday in the third year after issuance.

6.**] To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.**

2. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are less than twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the third year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license. A license issued under this section to an applicant who is over the age of sixty-nine and contains a school bus endorsement shall not be issued for a period that exceeds one year.

3. To all other applicants for a license or renewal of a license who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year of issuance, unless the license must be

issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.

4. To all other applicants for a license or renewal of a license who are less than twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the third year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.

5. The fee for a license issued for a period which exceeds three years under subsection 1 of this section shall be thirty dollars.

6. The fee for a license issued for a period of three years or less under subsection 2 of this section shall be fifteen dollars, except that the fee for a license issued for one year or less which contains a school bus endorsement shall be five dollars.

7. The fee for a license issued for a period which exceeds three years under subsection 3 of this section shall be fifteen dollars.

8. The fee for a license issued for a period of three years or less under subsection 4 of this section shall be seven dollars and fifty cents.

9. Beginning July 1, 2005, the director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section.

[7.**]** **10.** The director of revenue may adopt any rules and regulations necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

302.272. SCHOOL BUS ENDORSEMENT, QUALIFICATIONS — GROUNDS FOR REFUSAL TO ISSUE OR RENEW ENDORSEMENT — RULEMAKING AUTHORITY — RECIPROCITY. — 1. No person shall operate any school bus owned by or under contract with a public school or the state board of education unless such driver has qualified for a school bus endorsement under this section and complied with the pertinent rules and regulations of the department of revenue and any final rule issued by the secretary of the United States Department of Transportation or has a valid school bus endorsement on a valid commercial driver's license issued by another state. A school bus endorsement shall be issued to any applicant who meets the following qualifications:

(1) The applicant has a valid state license issued under this chapter **[**or has a license valid in any other state**]**;

(2) The applicant is at least twenty-one years of age; **and**

(3) **[**The applicant has passed a medical examination, including vision and hearing tests, as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the applicant shall pass the medical examination annually to maintain or renew the endorsement; and

(4)**]** The applicant has successfully passed an examination for the operation of a school bus as prescribed by the director of revenue. The examination shall include**[**, but need not be limited to, a written skills examination of applicable laws, rules and procedures, including**]** any examinations prescribed by the secretary of the United States Department of Transportation, and a driving test in the type of vehicle to be operated. The test shall be completed in the appropriate class of vehicle to be driven. For purposes of this section classes of school buses shall comply

with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570). **For drivers who are at least seventy years of age, such examination shall be completed annually.**

2. **[**Except as otherwise provided in this section, a school bus endorsement shall be renewed every three years and shall require the applicant to provide a medical examination as specified in subdivision (3) of subsection 1 of this section and to successfully pass a written skills examination as prescribed by the director of revenue in consultation with the department of elementary and secondary education. If the applicant is at least seventy years of age, the school bus endorsement shall be renewed annually, and the applicant shall successfully pass the examination prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed endorsement, provided that the background check, as contemplated by subsections 5 and 6 of this section, shall continue to be conducted on a renewing applicant's previously established three-year renewal schedule. The director may waive the written skills examination on renewal of a school bus endorsement upon verification of the applicant's successful completion within the preceding twelve months of a training program which has been approved by the director in consultation with the department of elementary and secondary education and which is at least eight hours in duration with special instruction in school bus driving.

3. The fee for a new or renewed school bus endorsement shall be three dollars.

4. Upon the applicant's completion of the requirements of subsections 1, 2, and 3 of this section, the director of revenue may issue a temporary school bus permit to the applicant until such time as a school bus endorsement shall be issued following the record clearance as provided in subsection 6 of this section.

5.**]** The director of revenue, to the best of the director's knowledge, shall not issue or renew a school bus endorsement to any applicant**[**:

(1)**]** whose driving record shows that such applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified or whose driving record shows a history of moving vehicle violations**[**;

(2) Who has pled guilty to or been found guilty of any felony or misdemeanor for violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving child abuse or the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge;

(3) Who has pled guilty to or been found guilty of any felony involving robbery, arson, burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any federal, state, municipal or other court of similar jurisdiction within the preceding ten years of which the director has knowledge;

(4) Who is listed on the child abuse and neglect registry.

6. The Missouri highway patrol shall provide a record of clearance or denial of clearance for any applicant for a school bus endorsement for the offenses specified in subdivisions (2) and (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of clearance or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of Investigation any information which might aid the Missouri highway patrol in providing such record of clearance or denial of clearance. The Missouri highway patrol shall provide the record of clearance or denial of clearance within thirty days of the date requested, relying on information available at that time, except that the Missouri highway patrol shall provide any information subsequently discovered to the department of revenue.

7. For purposes of obtaining the record of clearance or denial for convictions specified in subdivisions (2) and (3) of subsection 5 of this section, the applicant for a school bus endorsement shall submit two sets of fingerprints. Beginning January 1, 2005, the director shall request that the department of social services determine whether the applicant is listed on the child abuse and neglect registry and shall require the applicant to submit two sets of fingerprints. One set of fingerprints shall be used by the highway patrol in order to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

8. The applicant shall pay the fee for the state criminal history information pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus endorsement or permit pursuant to this section. The director shall distribute the fees collected for the state and federal criminal histories to the highway patrol.

9. If, as a result of the criminal history background check and the check of the child abuse and neglect registry required by this section, it is determined that an applicant has pled guilty or nolo contendere to, or been found guilty of an offense listed in subdivisions (2) and (3) of subsection 5 of this section, or a similar offense if committed in any other state, the United States, or any other country, regardless of imposition of sentence, or the applicant's name appears on the child abuse and neglect registry the director of revenue shall not issue or renew a school bus permit to such applicant**]**.

[10.**]** **3.** The director may adopt any rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

[11. Except as otherwise provided in this section,**]**

4. Notwithstanding the requirements of this section, an applicant who **resides in another state and** possesses a valid driver's license from **[**another**] his or her** state **of residence** with a valid school bus endorsement **[**and who is otherwise qualified to receive a school bus endorsement in this state shall be issued a school bus permit. The requirements to obtain and retain such permit shall be identical to those requirements for a school bus endorsement issued pursuant to this section**] for the type of vehicle being operated shall not be required to obtain a Missouri driver's license with a school bus endorsement**.

[302.272. SCHOOL BUS ENDORSEMENT, QUALIFICATIONS — GROUNDS FOR REFUSAL TO ISSUE OR RENEW ENDORSEMENT — RULEMAKING AUTHORITY — RECIPROCITY. — 1. No person shall operate any school bus owned by or under contract with a public school or the state board of education unless such driver has qualified for a school bus permit under this section and complied with the pertinent rules and regulations of the department of revenue. A school bus permit shall be issued to any applicant who meets the following qualifications:

(1) The applicant has a valid state license issued under this chapter or has a license valid in any other state;

(2) The applicant is at least twenty-one years of age;

(3) The applicant has passed a medical examination, including vision and hearing tests, as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the applicant shall pass the medical examination annually to maintain or renew the permit; and

(4) The applicant has successfully passed an examination for the operation of a school bus as prescribed by the director of revenue. The examination shall include, but need not be limited

to, a written skills examination of applicable laws, rules and procedures, and a driving test in the type of vehicle to be operated. The test shall be completed in the appropriate class of vehicle to be driven. For purposes of this section classes of school buses shall comply with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

2. Except as otherwise provided in this section, a school bus permit shall be renewed every three years and shall require the applicant to provide a medical examination as specified in subdivision (3) of subsection 1 of this section and to successfully pass a written skills examination as prescribed by the director of revenue in consultation with the department of elementary and secondary education. If the applicant is at least seventy years of age, the school bus permit shall be renewed annually, and the applicant shall successfully pass the examination prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed permit, provided that the background check, as contemplated by subsections 5 and 6 of this section, shall continue to be conducted on a renewing applicant's previously established three-year renewal schedule. The director may waive the written skills examination on renewal of a school bus permit upon verification of the applicant's successful completion within the preceding twelve months of a training program which has been approved by the director in consultation with the department of elementary and secondary education and which is at least eight hours in duration with special instruction in school bus driving.

3. The fee for a new or renewed school bus permit shall be three dollars.

4. Upon the applicant's completion of the requirements of subsections 1, 2, and 3 of this section, the director of revenue shall issue a temporary school bus permit to the applicant until such time as a permanent school bus permit shall be issued following the record clearance as provided in subsection 6 of this section.

5. The director of revenue, to the best of the director's knowledge, shall not issue or renew a school bus permit to any applicant:

(1) Whose driving record shows that such applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified or whose driving record shows a history of moving vehicle violations;

(2) Who has pled guilty to or been found guilty of any felony or misdemeanor for violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving child abuse or the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge;

(3) Who has pled guilty to or been found guilty of any felony involving robbery, arson, burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any federal, state, municipal or other court of similar jurisdiction within the preceding ten years of which the director has knowledge;

(4) Who is listed on the child abuse and neglect registry.

6. The Missouri highway patrol shall provide a record of clearance or denial of clearance for any applicant for a school bus permit for the offenses specified in subdivisions (2) and (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of clearance or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of Investigation any information which might aid the Missouri highway patrol in providing such record of clearance or denial of clearance. The Missouri highway patrol shall provide the record of clearance or denial of clearance within thirty days of the date requested, relying on information

available at that time, except that the Missouri highway patrol shall provide any information subsequently discovered to the department of revenue.

7. Beginning January 1, 2005, the director shall request that the department of social services determine whether the applicant is listed on the child abuse and neglect registry and shall require the applicant to submit two sets of fingerprints. One set of fingerprints shall be used by the highway patrol in order to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

8. The applicant shall pay the fee for the state criminal history information pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit pursuant to this section. The director shall distribute the fees collected for the state and federal criminal histories to the highway patrol.

9. If, as a result of the criminal history background check and the check of the child abuse and neglect registry required by this section, it is determined that an applicant has pled guilty or nolo contendere to, or been found guilty of an offense listed in subdivisions (2) and (3) of subsection 5 of this section, or a similar offense if committed in any other state, the United States, or any other country, regardless of imposition of sentence, or the applicant's name appears on the child abuse and neglect registry the director of revenue shall not issue or renew a school bus permit to such applicant.

10. The director may adopt any rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.**]**

302.510. ARRESTING OFFICER, DUTIES — CERTAIN ARRESTS NOT TO BE BASIS FOR ADMINISTRATIVE SUSPENSION OR REVOCATION. — 1. Except as provided in subsection 3 of this section, a law enforcement officer who arrests any person for a violation of any state statute related to driving while intoxicated or for a violation of a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol-related traffic offense, and in which the alcohol concentration in the person's blood, breath, or urine was eight-hundredths of one percent or more by weight or two-hundredths of one percent or more by weight for anyone less than twenty-one years of age, shall forward to the department a **[**verified**] certified** report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated any state statute related to driving while intoxicated or was less than twenty-one years of age and was driving with two-hundredths of one percent or more by weight of alcohol in the person's blood, or a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol-related traffic offense, a report of the results of any chemical tests which were conducted, and a copy of the citation and complaint filed with the court.

2. The report required by this section shall be **certified under penalties of perjury for making a false statement to a public official and** made on forms supplied by the department or in a manner specified by regulations of the department.

3. A county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol-related traffic offense may not be the basis for suspension or revocation of a driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement officer, other than an elected peace officer or official, has been **[**certified**] licensed** by the director

of the department of public safety pursuant to the provisions of **[**sections 590.100 to 590.180**]** **chapter 590**, RSMo.

302.530. REQUEST FOR ADMINISTRATIVE REVIEW, WHEN MADE — TEMPORARY PERMIT, DURATION — TELEPHONE HEARINGS PERMITTED, WHEN — HEARING, VENUE, CONDUCT — DECISION, NOTICE, FINAL WHEN — APPEAL FOR JUDICIAL REVIEW — RULEMAKING AUTHORITY. — 1. Any person who has received a notice of suspension or revocation may make a request within fifteen days of receipt of the notice for a review of the department's determination at a hearing. If the person's driver's license has not been previously surrendered, it **[**shall**]** **may** be surrendered at the time the request for a hearing is made.

2. At the time the request for a hearing is made, if it appears from the record that the person is the holder of a valid driver's license issued by this state, and that the driver's license has been surrendered **[**as required**]**, the department shall issue a temporary permit which shall be valid until the scheduled date for the hearing. The department may later issue an additional temporary permit or permits in order to stay the effective date of the suspension or revocation until the final order is issued following the hearing, as required by section 302.520.

3. The hearing may be held by telephone, or if requested by the person, such person's attorney or representative, in the county where the arrest was made. The hearing shall be conducted by examiners who are licensed to practice law in the state of Missouri and who are employed by the department on a part-time or full-time basis as the department may determine.

4. The sole issue at the hearing shall be whether by a preponderance of the evidence the person was driving a vehicle pursuant to the circumstances set out in section 302.505. The burden of proof shall be on the state to adduce such evidence. If the department finds the affirmative of this issue, the suspension or revocation order shall be sustained. If the department finds the negative of the issue, the suspension or revocation order shall be rescinded.

5. The procedure at such hearing shall be conducted in accordance with chapter 536, RSMo, **[**not otherwise in conflict**]** with sections 302.500 to 302.540. **A report certified under subsection 2 of section 302.510 shall be admissible in a like manner as a verified report as evidence of the facts stated therein and any provision of chapter 536, RSMo, to the contrary shall not apply.**

6. The department shall promptly notify**[**, by certified letter,**]** the person of its decision including the reasons for that decision. Such notification shall include a notice advising the person that the department's decision shall be final within fifteen days from the date **[**of certification of the letter**]** **such notice was mailed** unless the person challenges the department's decision within that time period by filing an appeal in the circuit court in the county where the arrest occurred.

7. Unless the person, within fifteen days after being notified **[**by certified letter**]** of the department's decision, files an appeal for judicial review pursuant to section 302.535, the decision of the department shall be final.

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

302.735. APPLICATION FOR COMMERCIAL LICENSE, CONTENTS, EXPIRATION, DURATION, FEES — NEW RESIDENT, APPLICATION DATES — FALSIFICATION OF INFORMATION, INELIGIBILITY FOR LICENSE, WHEN — NONRESIDENT COMMERCIAL LICENSE ISSUED, WHEN. — 1. An application shall not be taken from a nonresident after September 30, 2005. The application for a commercial driver's license shall include, but not be limited to, the applicant's legal name, mailing and residence address, if different, a physical description of the person, including sex, height, weight and eye color, the person's Social Security number, date of birth and any other information deemed appropriate by the director. The application shall also require, beginning September 30, 2005, the applicant to provide the names of all states where the applicant has been previously licensed to drive any type of motor vehicle during the preceding ten years.

2. [The application for a commercial driver's license or renewal shall be accompanied by the payment of a fee of forty dollars. The fee for a duplicate commercial driver's license shall be twenty dollars.] A commercial driver's license shall expire on the applicant's birthday in the sixth year after issuance**, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director,** and must be renewed on or before the date of expiration. [The director shall have the authority to stagger the issuance or renewal of commercial driver's license applicants over a six-year period.] When a person changes such person's name an application for a duplicate license shall be made to the director of revenue. When a person changes such person's mailing address or residence the applicant shall notify the director of revenue of said change, however, no application for a duplicate license is required. [To all applicants for a commercial license or renewal who are between eighteen and twenty-one years of age and seventy years of age and older, the application shall be accompanied by a fee of twenty dollars.] A commercial license issued pursuant to this section to an applicant less than twenty-one years of age and seventy years of age and older [or, beginning September 30, 2005, to an applicant for a commercial driver's license containing a school bus or hazardous materials endorsement] shall expire on the applicant's birthday in the third year after issuance**, unless the license must be issued for a shorter period as determined by the director.**

3. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is between the age of twenty-one and sixty-nine shall not be issued for a period exceeding five years from the approval date of the security threat assessment as determined by the Transportation Security Administration.

4. The director shall issue an annual commercial driver's license containing a school bus endorsement to an applicant who is seventy years of age or older. The fee for such license shall be seven dollars and fifty cents.

5. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is seventy years of age or older shall not be issued for a period exceeding three years. The director shall not require such drivers to obtain a security threat assessment more frequently than such assessment is required by the Transportation Security Administration under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.

6. The fee for a commercial driver's license or renewal commercial driver's license issued for a period greater than three years shall be forty dollars.

7. The fee for a commercial driver's license or renewal commercial driver's license issued for a period of three years or less shall be twenty dollars.

8. The fee for a duplicate commercial driver's license shall be twenty dollars.

9. In order for the director to properly transition driver's license requirements under the Motor Carrier Safety Improvement Act of 1999 and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, the director is authorized to stagger expiration dates and make adjustments for any fees, including driver examination fees that are incurred by the driver as a result of the initial issuance of a transitional license required to comply with such acts.

[3.] **10.** Within thirty days after moving to this state, the holder of a commercial driver's license shall apply for a commercial driver's license in this state. The applicant shall meet all other requirements of sections 302.700 to 302.780, except that the director may waive the driving test for a commercial driver's license as required in section 302.720 if the applicant for a commercial driver's license has a valid commercial driver's license from a state which has requirements for issuance of such license comparable to those in this state.

[4.] **11.** Any person who falsifies any information in an application or test for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's

commercial driver's license shall be canceled, for a period of one year after the director discovers such falsification.

[5.**]** **12.** Beginning July 1, 2005, the director shall not issue a commercial driver's license under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. If lawful presence is granted for a temporary period, no commercial driver's license shall be issued. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any commercial driver's license issued under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections 1 and 5 of this section to the contrary, the director may issue a nonresident commercial driver's license to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. Part 383.

(2) Any applicant for a nonresident commercial driver's license must present evidence satisfactory to the director that the applicant currently has employment with an employer in this state. The nonresident applicant must meet the same testing, driver record requirements, conditions, and is subject to the same disqualification and conviction reporting requirements applicable to resident commercial drivers.

(3) The nonresident commercial driver's license will expire on the same date that the documents establishing lawful presence for employment expire. The word "nonresident" shall appear on the face of the nonresident commercial driver's license. Any applicant for a Missouri nonresident commercial driver's license must first surrender any nonresident commercial driver's license issued by another state.

(4) The nonresident commercial driver's license applicant must pay the same fees as required for the issuance of a resident commercial driver license.

14. Foreign jurisdiction for purposes of issuing a nonresident commercial driver's license under this section shall not include any of the fifty states of the United States or Canada or Mexico.

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

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

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

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

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

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol**, the Missouri capitol police,** or a state park ranger, those vehicles operated by enforcement personnel of the state highways and transportation commission, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

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

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

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

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

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

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

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

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

(2) The driver of an emergency vehicle may:

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

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

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

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

(3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this subsection shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

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

7. Violation of this section shall be deemed a class C misdemeanor.

304.155. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY, REMOVAL — HAZARDS ON LAND AND WATER, REMOVAL, LIMITED LIABILITY, WHEN — TOWING OF PROPERTY REPORT TO HIGHWAY OR WATER PATROL OR CRIME INQUIRY AND INSPECTION REPORT WHEN, OWNER LIABLE FOR COSTS — CHECK FOR STOLEN VEHICLES PROCEDURE — RECLAIMING VEHICLE — LIEN FOR CHARGES — RECORD MAINTENANCE BY TOWING COMPANIES — LIENHOLDER REPOSSESSION, PROCEDURE. — 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours, or **[**after four hours**] immediately** if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours, or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under section 577.080, RSMo;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which due to any other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or

(8) Any abandoned property illegally left standing on the waters of this state as defined in section 306.010, RSMo, where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or is floating loose on the water.

2. The state transportation department may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the roadway of any state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, RSMo, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under Section 5103(a) of Title 49, U.S.C.

3. Any law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and

inspection report. Any state or federal government agency other than a law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within two hours of the tow along with a crime inquiry and inspection report as required in this section. Any local government agency, other than a law enforcement agency, authorizing a tow pursuant to this section where property is towed away from the immediate vicinity shall report the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.

4. Neither the law enforcement officer, government agency official nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

5. The owner of abandoned property removed as provided in this section or in section 304.157 shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 304.158.

6. Upon the towing of any abandoned property pursuant to this section or under authority of a law enforcement officer or local government agency pursuant to section 304.157, the law enforcement agency that authorized such towing or was properly notified by another government agency of such towing shall promptly make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. If the abandoned property is not claimed within ten working days of the towing, the tower who has online access to the department of revenue's records shall make an inquiry to determine the abandoned property owner and lienholder, if any, of record. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply with the requirements of subsection 3 of section 304.156. If the tower does not have online access, the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue. A towing company that does not have online access to the department's records and that is in possession of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed. The crime inquiry and inspection report shall be designed by the director of revenue and shall include the following:

(1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;

(2) A description of any damage to the property noted by the officer authorizing the tow;

(3) The license plate or registration number and the state of issuance, if available;

(4) The storage location of the towed property;

(5) The name, telephone number and address of the towing company;

(6) The date, place and reason for the towing of the abandoned property;

(7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the law enforcement agency making the inquiry;

(8) The signature and printed name of the officer authorizing the tow; and

(9) The name of the towing company, the signature and printed name of the towing operator, and an indicator disclosing whether the tower has online access to the department's records;

(10) Any additional information the director of revenue deems appropriate.

7. One copy of the crime inquiry and inspection report shall remain with the agency which authorized the tow. One copy shall be provided to and retained by the storage facility and one copy shall be retained by the towing facility in an accessible format in the business records for a period of three years from the date of the tow or removal.

8. The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

9. Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned as provided in this section shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property. Such lien shall be enforced in the manner provided under section 304.156.

10. Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain information regarding the authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, including copies of any online records of the towing company accessed and information concerning the final disposition of the possession of the abandoned property.

11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the repossessor shall notify the local law enforcement agency where the repossession occurred within two hours of the repossession and shall further provide the local law enforcement agency with any additional information the agency deems appropriate. The local law enforcement agency shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

12. Notwithstanding the provisions of section 301.227, RSMo, any towing company who has complied with the notification provisions in section 304.156, including notice that any property remaining unredeemed after thirty days may be sold as scrap property may then dispose of such property as provided in this subsection. Such sale shall only occur if at least thirty days has passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in section 304.156. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of revenue within two weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three years that shall be available for inspection by law enforcement and authorized department of revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing

company as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in section 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in section 301.227, RSMo, on vehicles purchased on a bill of sale pursuant to this section.

304.184. TRANSPORTATION OF SOLID WASTE, WEIGHT RESTRICTIONS FOR TRUCKS AND TRACTOR-TRAILERS. — Notwithstanding any other provision of law to the contrary, any truck, tractor-trailer or other combination engaged in transporting solid waste, as defined by section 260.200, between any city and a solid waste disposal area or solid waste processing facility approved by the department of natural resources or department of health and senior services, may operate with a weight not to exceed twenty-two thousand four hundred pounds on one axle or a weight not to exceed forty-four thousand eight hundred pounds on any tandem axle; but nothing in this section shall be construed to permit the operation of any motor vehicle on the interstate highway system in excess of the weight limits imposed by federal statute; and no such truck, tractor-trailer or other combination shall exceed the width and length limitations provided in section 304.190, RSMo.

304.678. DISTANCE TO BE MAINTAINED WHEN OVERTAKING A BICYCLE — VIOLATION, PENALTY. — 1. The operator of a motor vehicle overtaking a bicycle proceeding in the same direction on the roadway, as defined in section 300.010, RSMo, shall leave a safe distance, when passing the bicycle, and shall maintain clearance until safely past the overtaken bicycle.

2. Any person who violates the provisions of this section is guilty of an infraction unless an accident is involved in which case it shall be a class C misdemeanor.

307.180. BICYCLE AND MOTORIZED BICYCLE, DEFINED. — As used in sections 307.180 to 307.193:

(1) The word "bicycle" shall mean every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, **or two parallel wheels and one or two forward or rear wheels, all of which are more than fourteen inches in diameter,** except scooters and similar devices;

(2) The term "motorized bicycle" shall mean any two- or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground. A motorized bicycle shall be considered a motor vehicle for purposes of any homeowners' or renters' insurance policy.

307.191. BICYCLE TO OPERATE ON THE SHOULDER ADJACENT TO ROADWAY, WHEN — ROADWAY DEFINED. — 1. A person operating a bicycle at less than the posted speed or slower than the flow of traffic upon a street or highway may operate as described in section 307.190, or may operate on the shoulder adjacent to the roadway.

2. A bicycle operated on a roadway, or the shoulder adjacent to a roadway, shall be operated in the same direction as vehicles are required to be driven upon the roadway.

3. For purposes of this section and section 307.190, "roadway", means that portion of a street or highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

307.192. BICYCLE REQUIRED TO GIVE HAND OR MECHANICAL SIGNALS. — The operator of a bicycle shall signal as required in section 304.019, RSMo, except that a signal by the hand and arm need not be given continuously if the hand is needed to control or

operate the bicycle. An operator of a bicycle intending to turn the bicycle to the right shall signal as indicated in section 304.019, RSMo, or by extending such operator's right arm in a horizontal position so that the same may be seen in front and in rear of the vehicle.

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — NOTICE, REPORT OF PEACE OFFICER, CONTENTS — REVOCATION OF LICENSE, HEARING — EVIDENCE, ADMISSIBILITY — REINSTATEMENT OF LICENSES — SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM — ASSIGNMENT RECOMMENDATIONS, JUDICIAL REVIEW — FEES. — 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a **[**sworn**]** **certified** report **[**to the director of revenue, which**]** **under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and** shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an

order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the

department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010, RSMo, and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

SECTION 1. BUS DRIVERS, MEDICAL ENDORSEMENT REQUIRED, WHEN. — Each school district shall have on file a statement from a medical examiner which indicates that the driver is physically qualified to operate a school bus for the purpose of transporting pupils. Such statement shall be made on an annual basis. The term medical examiner includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic. For new drivers, such statement shall be on file prior to the driver's initial operation of a school bus. This section shall apply to drivers employed by the school district or under contract with the school district.

SECTION 2. BUS DRIVER TRAINING REQUIRED. — On an annual basis, each school district shall provide training in at least eight hours of duration to each school bus driver employed by the school district or under contract with the school district. Such training shall provide special instruction in school bus driving.

[260.218. VEHICLES TRANSPORTING SOLID WASTES, WEIGHT LIMITS. — Notwithstanding any other provision of law to the contrary, any truck, tractor-trailer or other combination engaged in transporting solid waste, as defined by section 260.200, between any city and a solid waste disposal area or solid waste processing facility approved by the department of natural resources or department of health and senior services, may operate with a weight not to exceed twenty-two thousand four hundred pounds on one axle or a weight not to exceed forty-four thousand eight hundred pounds on any tandem axle; but nothing in this section shall be construed to permit the operation of any motor vehicle on the interstate highway system in excess of the weight limits imposed by federal statute; and no such truck, tractor-trailer or other combination shall exceed the width and length limitations provided in section 304.190, RSMo.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the safety of children receiving pupil transportation services and to ensure the safe transportation of hazardous materials on the streets and highways of this state, the repeal of 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969 merged with house substitute for senate substitute for senate committee substitute for senate bill

nos. 1233, 840 & 1043, ninety-second general assembly, second regular session the repeal and reenactment of sections 43.530, 136.055, 168.133, 302.177, 302.735, RSMo, and section 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969, ninety-second general assembly, second regular session, and the enactment of section 1 of this act, 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, the repeal of 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969 merged with house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, the repeal and reenactment of sections 43.530, 136.055, 168.133, 302.177, 302.735, RSMo, and section 302.272 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1453 merged with conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 968 and senate substitute for senate bill no. 969, ninety-second general assembly, second regular session, and the enactment of section 1 of this act, shall be in full force and effect upon its passage and approval.

Approved July 6, 2005

HB 500 [SS SCS HCS HB 500 & 533]

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 laws regarding the transfer of a business and its unemployment experience rate by an employer

AN ACT to repeal section 288.110, RSMo, and to enact in lieu thereof one new section relating to the transfer of employer accounts, with an effective date.

SECTION

A. Enacting clause.
288.110. Transfer of employer accounts — successor employer liabilities — unemployment experience, how treated — penalties — definitions.
B. Effective date.

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

SECTION A. ENACTING CLAUSE. — Section 288.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.110, to read as follows:

288.110. TRANSFER OF EMPLOYER ACCOUNTS — SUCCESSOR EMPLOYER LIABILITIES — UNEMPLOYMENT EXPERIENCE, HOW TREATED — PENALTIES — DEFINITIONS. — 1. Any individual, type of organization or employing unit which has acquired substantially all of the

business of an employer, excepting in any such case any assets retained by such employer incident to the liquidation of **[**his**]** **the employer's** obligations, and in respect to which the division finds that immediately after such change such business of the predecessor employer is continued without interruption solely by the successor, shall stand in the position of such predecessor employer in all respects, including the predecessor's separate account, actual contribution and benefit experience, annual payrolls, and liability for current or delinquent contributions, interest and penalties. If two or more individuals, organizations, or employing units acquired at approximately the same time substantially all of the business of an employer (excepting in any such case any assets retained by such employer incident to the liquidation of his obligations) and in respect to which the division finds that immediately after such change all portions of such business of the predecessor are continued without interruption solely by such successors, each such individual, organization, or employing unit shall stand in the position of such predecessor with respect to the proportionate share of the predecessor's separate account, actual contribution and benefit experience and annual payroll as determined by the portion of the predecessor's taxable payroll applicable to the portion of the business acquired, and each such individual, organization or employing unit shall be liable for current or delinquent contributions, interest and penalties of the predecessor in the same relative proportion. Further, any successor under this section which was not an employer at the time the acquisition occurred shall pay contributions for the balance of the current rate year at the same contribution rate as the contribution rate of the predecessor whether such rate is more or less than two and seven-tenths percent, provided there was only one predecessor or there were only predecessors with identical rates. If the predecessors' rates were not identical, the division shall calculate a rate as of the date of acquisition applicable to the successor for the remainder of the rate year, which rate shall be based on the combined experience of all predecessor employers. In the event that any successor was, prior to an acquisition, an employer, and there is a difference in the contribution rate established for such calendar year applicable to any acquired or acquiring employer, the division shall make a recalculation of the contribution rate applicable to any successor employer based upon the combined experience of all predecessor and successor employers as of the date of the acquisition, unless the date of the acquisition is other than the first day of the calendar quarter. If the date of any such acquisition is other than the first day of the calendar quarter, the division shall make the recalculation of the rate on the first day of the next calendar quarter after the acquisition. When the date of the acquisition is other than the first day of a calendar quarter, the successor employer shall use its rate for the calendar quarter in which the acquisition was made. The revised contribution rate shall apply to employment after the rate recalculation. For this purpose a calculation date different from July first may be established. When the division has determined that a successor or successors stand in the position of a predecessor employer, the predecessor's liability shall be terminated as of the date of the acquisition.

2. If an employer transfers its trade or business, or a portion thereof, to another employer and at the time of the transfer there is substantially common ownership, management, or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates and liabilities of both employers shall be recalculated and made effective under this section.

3. Whenever any individual, type of organization, or employing unit is not an employer under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to such individual, organization, or employing unit if the division finds that such individual, organization, or employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such individual, organization, or employing unit shall be assigned the applicable new employer rate under section 288.090. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the division shall use objective factors which may

include the cost of acquiring the business, whether the individual, organization, or employing unit continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

4. (1) If an individual, organization, or employing unit knowingly violates or attempts to violate this section or any other provision of this chapter related to determining the assignment of a contribution rate, or if an individual, organization or employing unit knowingly advises another individual, organization, or employing unit in a manner that results in a violation of such provision, the individual, organization, or employing unit shall be subject to the following penalties:

(a) If the individual, organization, or employing unit is an employer under this chapter, then for the current year and the three rate years immediately following this rate year, such employer's base rate shall be the maximum base rate applicable to such type of employer, or the employer's current base rate plus two percent, whichever is greater;

(b) If the individual, organization, or employing unit is not an employer under this chapter, such individual, organization, or employing unit shall be subject to a civil monetary penalty of not more than five thousand dollars. Any such fine shall be deposited in the special employment security fund established under section 288.310.

(2) In addition to the penalty imposed by this subsection, any violation of this section may be prosecuted under section 288.395.

5. For purposes of this section, the following terms mean:

(1) "Base rate", the employer's contribution rate as determined by section 288.090, subsection 1, 2, or 3 of section 288.120, or section 288.126, or a federal base rate assignment;

(2) "Knowingly", having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved;

(3) "Violates or attempts to violate", includes, but is not limited to, intent to invade, misrepresentation, or willful nondisclosure.

6. The division shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

7. This section shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

SECTION B. EFFECTIVE DATE. — Section A of this act shall become effective on January 1, 2006.

Approved July 6, 2005

HB 513 [HCS HB 513]

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 State Highway 370 in St. Louis County as the "Officer Scott Armstrong Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a certain highway.

SECTION
A. Enacting clause.
227.367. Officer Scott Armstrong Memorial Highway designated in St. Louis County.

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 227.367, to read as follows:

227.367. OFFICER SCOTT ARMSTRONG MEMORIAL HIGHWAY DESIGNATED IN ST. LOUIS COUNTY. — The portion of highway 370 in St. Louis County from the intersection of Interstate 270, west to the Discovery Bridge, shall be designated the "Officer Scott Armstrong Memorial Highway". Costs for such designation shall be paid by the Bridgeton Optimist Club.

Approved June 21, 2005

HB 515 [SCS HCS HB 515]

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 laws regarding the election of board members of tourism community enhancement districts and the disbursement of the district's retail tax

AN ACT to repeal sections 67.1956, 67.1959, 67.1968, and 67.1979, RSMo, and to enact in lieu thereof four new sections relating to tourism community enhancement districts.

SECTION
A. Enacting clause.
67.1956. Board of directors, members, terms, duties.
67.1959. Sales tax imposed, when — submitted to voters, ballot language.
67.1968. Expenditure of sales tax revenue, conditions.
67.1979. Removal of board members.

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

SECTION A. ENACTING CLAUSE. — Sections 67.1956, 67.1959, 67.1968, and 67.1979, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 67.1956, 67.1959, 67.1968, and 67.1979, to read as follows:

67.1956. BOARD OF DIRECTORS, MEMBERS, TERMS, DUTIES. — 1. In each tourism community enhancement district established pursuant to section 67.1953, there shall be a board of directors, to **[**initially**]** consist of **[**not less than five**] seven** members. **[**One member**] Three members** shall be selected by the governing body of the city, town or village, **[**with the largest population, at the inception of the district, within the district. One member**] located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. Two members** shall be selected by the governing body of the city, town or village, **[**with the second largest population, at the inception of the district, within the district**] located within the district, that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district**, if such a city, town or village exists in the district. If no such city, town or village exists

in the district then **[**one member**]** **two additional members** shall be selected by the **[**board of directors of the district from the unincorporated area of such district. Two members**]** **governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. One member** shall be selected by the **[**largest convention and visitor's bureau or similar organization, at the inception of the district, within the district**]** **governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district.** One member shall be selected by the **[**destination marketing organization of the second largest county, city, town or village, at the inception of the district, within the district**]** **governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district**.

2. Of the members first selected, the **[**two**]** **three** members from the city, town or village **located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district** shall be selected for a term of three years, the two members **[**from the convention and visitor's bureau**]** **from the city, town or village located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district** shall be selected for a term of two years, and the **[**member from the destination marketing organization of the second largest city**]** **remaining members** shall be selected for a term of one year. Thereafter, each member selected shall serve a three-year term. Every member shall be **either** a resident of the district**, own real property within the district, be employed by a business within the district, or operate a business within the district**. All members shall serve without compensation. **[**Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected, with the new person serving the remainder of the term of the person who vacated the position.**]** The board shall elect its own treasurer, secretary and such other officers as it deems necessary and expedient, and it may make such rules, regulations, and bylaws to carry out its duties pursuant to sections 67.1950 to 67.1977.

[2. Any time a district is expanded by either an unincorporated or incorporated area, the board shall be expanded by two members. One member shall be appointed by the governing body of the incorporated area added to the district or by the board of directors of the district for the unincorporated area added to the district and one member shall be appointed by the governing body of the city, town or village with the largest population at the inception of the district for the first expansion and every odd-numbered expansion thereafter, or by the convention and visitor's bureau or similar entity of the largest city, town or village, at the inception of the district, for the second expansion and every even-numbered expansion thereafter.**]**

3. Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected within sixty days of the vacancy occurring, with the new person serving the remainder of the term of the person who vacated the position. In the event that a person is not so selected within sixty days of the vacancy occurring, the remaining members of the board shall select a person to serve the remainder of the term of the person who vacated the position.

4. If a tourism community enhancement district is already in existence on the effective date of this section, the one additional board member shall be appointed by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district for a one-year term and the other additional board member shall be appointed by the governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district for a two-year term, thereafter all board members shall serve three-year terms. The existing board members shall serve out their terms with the

provisions of this section controlling the appointment of successor board members, with first and second board existing positions to expire to be appointed by the governing body of the city, town or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district, the third and fourth existing board positions to expire to be appointed by the governing body of the city, town or village located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district and the fifth existing board position to expire to be appointed by the governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district.

[3.**]** **5.** The board, on behalf of the district, may:

(1) Cooperate with public agencies and with any industry or business **[**located within the district**]** in the implementation of any project;

(2) Enter into any agreement with any public agency, person, firm, or corporation to implement any of the provisions of sections 67.1950 to 67.1977;

(3) Contract and be contracted with, and sue and be sued; and

(4) Accept gifts, grants, loans, or contributions from the United States of America, the state, any political subdivision, foundation, other public or private agency, individual, partnership or corporation on behalf of the tourism enhancement district community.

67.1959. SALES TAX IMPOSED, WHEN — SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The board, by a majority vote, may submit to the residents of such district a tax of not more than one percent on all retail sales, except **sales of food as defined in section 144.014, RSMo,** sales of new or used motor vehicles, trailers, boats, or other outboard motors**, all utilities, telephone and wireless services,** and sales of funeral services, made within the district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon the written request of the board to the election authority of the county in which a majority of the area of the district is situated, such election authority shall submit a proposition to the residents of such district at a municipal or statewide primary or general election, or at a special election called for that purpose. Such election authority shall give legal notice as provided in chapter 115, RSMo.

2. Such proposition shall be submitted to the voters of the district in substantially the following form at such election:

Shall the Tourism Community Enhancement District impose a sales tax of ..... (insert amount) for the purpose of promoting tourism **[**and community enhancements in the (name of county, city, town or village that includes a majority of the area within the proposed district) ..... Tourism Community Enhancement District**] in the district**?

[ ] Yes [ ] No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the proposed district voting thereon are in favor of the proposal, then the order shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the tax. If the proposal receives less than the required majority, then the board shall have no power to impose the sales tax authorized pursuant to this section unless and until the board shall again have submitted another proposal to authorize the board to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district.

67.1968. EXPENDITURE OF SALES TAX REVENUE, CONDITIONS. — Expenditures may be made from the tourism community enhancement district sales tax trust fund or moneys collected pursuant to section 67.1965 for any purposes authorized pursuant to subsection 1 of section 67.1959, provided as follows:

(1) **[**Ten percent of the revenues shall be used for education purposes. The board shall transmit those revenues to the school district or districts within the district, on a basis of revenue collected within each school district. These revenues shall not be used in any manner with respect to the calculation of the state school aid pursuant to chapter 163, RSMo;

(2) Ten percent of the revenues collected from the tax authorized by this section shall be used by the board for senior citizen or youth or community enhancement purposes within the district. The board shall distribute these revenues to the cities, towns and villages based upon the amount of sales tax collected within each city, town or village and the portion of the revenues not attributable to any city, town or village shall be distributed at the discretion of the board;

(3) Seventy-five percent of the revenues shall be used by the board for marketing, advertising and promotion of tourism. The district shall enter into an agreement with a not-for-profit organization providing local support services, including but not limited to visitor's centers, to conduct and administer public relations, sales and marketing of tourism on behalf of the district to enhance the economic health of the district. Such marketing, advertising and promotional activities shall be developed into a comprehensive marketing plan, for the benefit of the district;

(4) Two percent of the revenues shall be distributed among each destination marketing organization located within each school district or districts within the district based upon the amount of sales tax collected within each school district;

(5) Two percent of the revenues shall be transmitted to the not-for-profit organization conducting and administering the marketing plan within the district for purposes of administering the marketing plan.**] One percent of the revenues collected from the tax authorized by this section may be held in reserve and used by the board for the reimbursement of or for lawful and reasonable administrative expenses involved with the board's fulfillment of their statutory duties including, but not limited to, insurance, election costs, legal, accounting, and audit fees, administrative services and travel. If such reasonable expenses, plus a reasonable reserve, exceed the revenues provided in this subdivision, then the additional revenues necessary for such reasonable expenses shall come from the revenues provided in subdivision (2) of this section. If such reasonable expenses, plus a reasonable reserve, do not exceed the revenues provided in this subdivision, the board may use the excess funds in the same manner as the revenues provided in subdivision (2) of this section;**

(2) Ninety-eight percent of the revenues collected from the tax authorized by this section shall be used by the board for marketing, advertising, and promotion of tourism, the administration thereof, and a reasonable reserve. The district shall enter into an agreement with an organization or organizations to conduct and administer functions such as public relations, sales, and marketing of tourism on behalf of the district to enhance the economic health of the district. Such marketing, advertising, and promotional activities shall be developed into a comprehensive marketing plan, for the benefit of the district. Up to two percent of the revenues in this subdivision, at the sole discretion of the board, may be distributed among each destination marketing organization, located within each school district or districts within the district based upon the amount of sales tax collected within each school district, for marketing based upon a marketing plan which shall be submitted each year by the destination marketing organizations located within the district, if such marketing plan is approved by the board.

(3) One percent of the revenues collected from the tax authorized by this section may be retained by the Missouri department of revenue or any other entity responsible for the collection of the sales tax.

67.1979. REMOVAL OF BOARD MEMBERS. — Members of the board of directors may be removed by **[**two-thirds**] a majority** vote of the appointing governing body.

Approved July 6, 2005

HB 530 [HB 530]

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

Allows students taking courses in American Sign Language to receive foreign language academic credit

AN ACT to amend chapter 160, RSMo, by adding thereto one new section relating to American Sign Language.

SECTION
A. Enacting clause.
160.075. American Sign Language courses, treatment as a foreign language, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 160, RSMo, is amended by adding thereto one new section, to be known as section 160.075, to read as follows:

160.075. AMERICAN SIGN LANGUAGE COURSES, TREATMENT AS A FOREIGN LANGUAGE, WHEN. — 1. Any public school or public institution of higher education in this state may offer one or more courses in American Sign Language (ASL). American Sign Language shall be treated as a foreign language for academic credit granting and receiving purposes when ASL is offered by a public school or public institution of higher education in Missouri.

2. Any student enrolled in a public school or public institution of higher education in this state that offers an American Sign Language course or courses as part of the school's or institution's regular curriculum shall receive academic credit for such course or courses if such school or institution provides academic credit for a course or courses in any other foreign language. Nothing in this section shall prohibit a school or institution from offering nonacademic credit ASL classes as part of the school's or institution's educational program.

3. Any student enrolled in a public school or public institution of higher education in this state that offers an American Sign Language course or courses may earn academic credit for such course by completing the course with a passing grade or by demonstrating a proficiency in ASL at a level of competence equal to that taught in such course.

4. Academic credit received for taking an ASL course or demonstrating proficiency in ASL shall be counted toward satisfaction of any foreign language or language arts requirements of the public school or public institution of higher education, including any foreign language or language arts entrance requirements of any public institution of higher education.

5. Nothing in subsection 4 of this section shall be construed as limiting the ability of individual departments in public institutions of higher education located in the state of Missouri from establishing specific departmental language requirements for majors that cannot be met by American Sign Language.

6. The Missouri commission for the deaf and hard of hearing and the Missouri American Sign Language teachers association shall provide assistance, advice, and guidance on the development, establishment, and teaching of American Sign Language courses in Missouri public schools and public institutions of higher education as needed and requested.

Approved June 24, 2005

HB 531 [HCS HB 531]

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

Authorizes the Governor to convey property in Greene County to the Greater Ozarks Association for Retarded Citizens

AN ACT to authorize the governor to convey property owned by the state in Greene County.

SECTION
1. Conveyance of state property in Greene County to Greater Ozarks Association for Retarded Citizens.

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

SECTION 1. CONVEYANCE OF STATE PROPERTY IN GREENE COUNTY TO GREATER OZARKS ASSOCIATION FOR RETARDED CITIZENS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Greene County to the greater Ozarks association for retarded citizens. The property to be conveyed is more particularly described as follows:

Beginning at a point on the north line of Pythian street 1118.30 feet west of the west line of Glenstone avenue, as said streets are now established, thence north making an angle 89°56'00" to the right with the last course a distance of 935.50 feet, thence west making an angle of 90°01'00" to the left with the last described course, a distance of 836.65 feet, thence south making an angle of 90°05'00" to the left with the last described course 165.00 feet for a second point of beginning, thence continuing southward 65.00 feet, thence on an angle to the left of 89°55'00" a distance of 407.00 feet, thence on an angle to the left of 90°05'00" a distance of 65.00 feet, thence on an angle to the left of 89°55'00" a distance of 407.00 feet to the second point beginning, being a part of the south 1/2 of the ne 1/4 of section 18, township 29 north, range 21 west, Springfield, Greene county, Missouri.
The greater Ozarks association for retarded citizens shall be responsible for the relocation of the maintenance and delivery driveway onto Springfield regional center property.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved June 22, 2005

HB 563 [HCS HB 563]

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 court to reinstate and extend the life of drainage and levee districts up to five years after lapse of its corporate charter

AN ACT to repeal section 246.005, RSMo, and to enact in lieu thereof one new section relating to drainage and levee districts, with an emergency clause.

SECTION
A. Enacting clause.
246.005. Extension of time of corporate existence — reinstatement period for certain districts.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 246.005, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 246.005, to read as follows:

246.005. EXTENSION OF TIME OF CORPORATE EXISTENCE — REINSTATEMENT PERIOD FOR CERTAIN DISTRICTS. — 1. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, which has, prior to April 8, 1994, been granted an extension of the time of corporate existence by the circuit court having jurisdiction, shall be deemed to have fully complied with all provisions of law relating to such extensions, including the time within which application for the extension must be made, unless, for good cause shown, the circuit court shall set aside such extension within ninety days after April 8, 1994.

2. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, shall have five years after the lapse of the corporate charter in which to reinstate and extend the time of the corporate existence by the circuit court having jurisdiction, and such circuit court judgment entry and order shall be deemed to have fully complied with all provisions of law relating to such extensions.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure continuation of services in a drainage or levee district after corporate dissolution, section A of this act is deemed necessary, 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 6, 2005

HB 567 [HB 567]

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 limit for filing an exception to a commissioner's award in a condemnation proceeding from 10 days to 30 days to conform with the Supreme Court's rule

AN ACT to repeal section 523.050, RSMo, and to enact in lieu thereof one new section relating to condemnation proceedings.

SECTION
A. Enacting clause.
523.050. Commissioners' report — notice of filing — review.

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

SECTION A. ENACTING CLAUSE. — Section 523.050, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 523.050, to read as follows:

523.050. COMMISSIONERS' REPORT — NOTICE OF FILING — REVIEW. — 1. Upon the filing of such report of **[**said**] the** commissioners, the clerk of the court **[**wherein**] in which** the same is filed shall duly notify the party whose property is affected of the filing **[**thereof**]**; and the

report of **[**said**]** **the** commissioners may be reviewed by the court in which the proceedings are had, on written exceptions, filed by either party in the clerk's office, within **[**ten**]** **thirty** days after the service of **[**the**]** **such** notice **[**aforesaid**]**; and the court shall make such order **[**therein**]** as right and justice may require, and may order a new appraisement, upon good cause shown.

2. Such new appraisement shall, at the request of either party, be made by a jury, under the supervision of the court, as in ordinary cases of inquiry of damages; but notwithstanding such exceptions, such company may proceed to erect **[**said**]** **such** telephone or telegraph line, or construct **[**said**]** **such** road or railroad; and any subsequent proceedings shall only affect the amount of compensation to be allowed. In all cases arising under the provisions of this chapter, the report of commissioners, when signed by a majority of them, shall be taken and considered as the report of all.

3. If after ninety days after the award is paid into court no agreement has been filed and no party having an interest in the award has filed a distribution motion, the court shall determine the percentage of the award to which each party having an interest **[**therein**]** **in it** is entitled.

Approved July 6, 2005

HB 568 [CCS SS HCS#2 HB 568]

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 laws regarding the protection of children

AN ACT to repeal sections 210.110, 210.112, 210.117, 211.037, 211.038, 452.375, 452.400, and 452.490, RSMo, and to enact in lieu thereof ten new sections relating to protection of children.

SECTION

A. Enacting clause.
167.229. Model school wellness program established, purpose — grants awarded, use of moneys — rulemaking authority — sunset provision.
210.110. Definitions.
210.112. Children's services providers and agencies, contracting with, requirements — reports to general assembly — rulemaking authority.
210.114. Qualified immunity for private contractor, when — exceptions.
210.117. Child not reunited with parents or placed in a home, when.
211.037. Nonoffending parent, child returned to custody of, when.
211.038. Children not to be reunited with parents or placed in a home, when — discretion to return, when.
452.375. Custody — definitions — factors determining custody — prohibited, when — public policy of state — custody options plan, when required — findings required, when — exchange of information and right to certain records, failure to disclose — fees, costs assessed, when — joint custody not to preclude child support — support, how determined — domestic violence or abuse, specific findings.
452.400. Visitation rights, awarded when — history of domestic violence, consideration of — prohibited, when — modification of, when — supervised visitation defined — noncompliance with order, effect of — family access motions, procedure, penalty for violation — attorney fees and costs assessed, when.
452.490. Appearance of parties — child — guardian ad litem appointed, fee — disqualification, when.

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

SECTION A. ENACTING CLAUSE. — Sections 210.110, 210.112, 210.117, 211.037, 211.038, 452.375, 452.400, and 452.490, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 167.229, 210.110, 210.112, 210.114, 210.117, 211.037, 211.038, 452.375, 452.400, and 452.490, to read as follows:

167.229. MODEL SCHOOL WELLNESS PROGRAM ESTABLISHED, PURPOSE — GRANTS AWARDED, USE OF MONEYS — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. The department of elementary and secondary education shall establish a "Model School Wellness Program", and any moneys appropriated, other than general revenue, by the general assembly for this program shall be used by selected school districts to establish school-based pilot programs that focus on encouraging students to establish and maintain healthy lifestyles. The moneys appropriated shall be from the Child Nutrition and WIC Reauthorization federal grant money. These programs shall include tobacco prevention education and the promotion of balanced dietary patterns and physical activity to prevent becoming overweight or obese, and discussion of serious and chronic medical conditions that are associated with being overweight. The content of these programs shall address state and national standards and guidelines established by the No Child Left Behind Act, the Healthy People 2010 Leading Health Indicators as compiled by the National Center for Health Statistics, and the Produce for Better Health Foundation's "5 A Day, The Color Way" program.

2. School districts may apply for one-year grants for school year 2005-2006 under this section. The department shall establish selection criteria and methods for distribution of funds to school districts applying for such funds. The department shall promulgate rules to implement the provisions of this section.

3. A school district that receives a grant under this section shall use the funds to plan and implement the program in a diverse sampling of schools in each district. The programs shall address students' academic success as well as health concerns, and encourage links between the school and home settings to promote active healthy lifestyles across the students' learning environments. The tobacco prevention initiative shall focus on grades four and five to target students before they transition into middle grades. The obesity prevention programs will cover sequential wellness education across grades kindergarten through fifth grades. These programs shall:

(1) Be multidisciplinary, addressing academic standards in language arts, math, and health;

(2) Provide multimedia resources that engage the students;

(3) Be evidence-based showing successful implementation including positive changes in desired outcomes, such as changes in body mass index or attitudes towards tobacco use;

(4) Be able to be integrated in to the core classroom at the elementary level; and

(5) Be sustainable and provide open web-based resources to teachers and students across Missouri.

4. Hands-on professional development opportunities shall be provided in local districts for the teachers who will be implementing the program. Ongoing support shall be provided to the teachers and schools during the pilot period.

5. Following the completion of the 2005-2006 school year, the department shall evaluate the effectiveness of the model school wellness program in increasing knowledge, changing body mass index, improving attitudes and behaviors of students related to nutrition, physical activity, or tobacco use.

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, 2005, shall be invalid and void.

7. Pursuant to section 23.353, RSMo, of the Missouri sunset act:

(1) The provisions of this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September 1 of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

210.110. DEFINITIONS. — As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse;

(2) **"Assessment and treatment services for children under ten years old", an approach to be developed by the children's division which will recognize and treat the specific needs of at-risk and abused or neglected children under the age of ten. The developmental and medical assessment may be a broad physical, developmental, and mental health screening to be completed within thirty days of a child's entry into custody and every six months thereafter as long as the child remains in care. Screenings may be offered at a centralized location and include, at a minimum, the following:**

(a) Complete physical to be performed by a pediatrician familiar with the effects of abuse and neglect on young children;

(b) Developmental, behavioral, and emotional screening in addition to early periodic screening, diagnosis, and treatment services, including a core set of standardized and recognized instruments as well as interviews with the child and appropriate caregivers. The screening battery may be performed by a licensed mental health professional familiar with the effects of abuse and neglect on young children, who will then serve as the liaison between all service providers in ensuring that needed services are provided. Such treatment services may include in-home services, out of home placement, intensive twenty-four hour treatment services, family counseling, parenting training and other best practices.

Children whose screenings indicate an area of concern may complete a comprehensive, in-depth health, psycho-diagnostic, or developmental assessment within sixty days of entry into custody.

(3) "Central registry", a registry of persons where the division has found probable cause to believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, or a court has substantiated through court adjudication that the individual has committed child abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime pursuant to chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes. Any persons placed on the registry prior to August 28, 2004, shall remain on the registry for the duration of time required by section 210.152;

[(3)**] (4)** "Child", any person, regardless of physical or mental condition, under eighteen years of age;

[(4)**] (5)** "Children's services providers and agencies", any public, quasi-public, or private entity with the appropriate and relevant training and expertise in delivering services to children and their families as determined by the children's division, and capable of providing direct services and other family services for children in the custody of the children's division or any such entities or agencies that are receiving state moneys for such services;

[(5)**] (6)** "Director", the director of the Missouri children's division within the department of social services;

[(6)**] (7)** "Division", the Missouri children's division within the department of social services;

[(7)**] (8)** "Family assessment and services", an approach to be developed by the children's division which will provide for a prompt assessment of a child who has been reported to the division as a victim of abuse or neglect by a person responsible for that child's care, custody or control and of that child's family, including risk of abuse and neglect and, if necessary, the provision of community-based services to reduce the risk and support the family;

[(8)**] (9)** "Family support team meeting" or "team meeting", a meeting convened by the division or children's services provider in behalf of the family and/or child for the purpose of determining service and treatment needs, determining the need for placement and developing a plan for reunification or other permanency options, determining the appropriate placement of the child, evaluating case progress, and establishing and revising the case plan;

[(9)**] (10)** "Investigation", the collection of physical and verbal evidence to determine if a child has been abused or neglected;

[(10)**] (11)** "Jail or detention center personnel", employees and volunteers working in any premises or institution where incarceration, evaluation, care, treatment or rehabilitation is provided to persons who are being held under custody of the law;

[(11)**] (12)** "Neglect", failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being;

[(12)**] (13)** "Preponderance of the evidence", that degree of evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it or evidence which as a whole shows the fact to be proved to be more probable than not;

[(13)**] (14)** "Probable cause", available facts when viewed in the light of surrounding circumstances which would cause a reasonable person to believe a child was abused or neglected;

[(14)**] (15)** "Report", the communication of an allegation of child abuse or neglect to the division pursuant to section 210.115;

[(15)**] (16)** "Those responsible for the care, custody, and control of the child", those included but not limited to the parents or guardian of a child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. Those responsible for the care, custody and control shall also include any adult who, based on relationship to the parents of the child, members of the child's household or the family, has access to the child.

210.112. CHILDREN'S SERVICES PROVIDERS AND AGENCIES, CONTRACTING WITH, REQUIREMENTS — REPORTS TO GENERAL ASSEMBLY — RULEMAKING AUTHORITY. — 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

(1) The safety and welfare of children is paramount;

(2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;

(3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and

(4) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for children and their families. Contracts shall be awarded through a competitive process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

(1) A proven record of providing child welfare services within the state of Missouri which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004; and

(2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case management, planned permanent living services, and family reunification services.

No contracts shall be issued for services related to the child abuse and neglect hotline, investigations of alleged abuse and neglect, and initial family assessments. Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services, and shall be subject to oversight and inspection by appropriate state agencies to assure compliance with standards which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services consistent with federal guidelines. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

4. The contracts entered into under this section shall assure that:

(1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial and relevant training, education, or competencies otherwise demonstrated in the area of children and family services;

(2) Children's services providers and agencies shall be evaluated by the division based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan established under subsection 5 of this section which is consistent with all relevant federal guidelines. The case management plan shall focus on attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological or adoptive parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved; **[**and**]**

(d) The needs of the child for a continuing relationship with the child's biological or adoptive parents and the ability and willingness of the child's biological or adoptive parents to actively perform their functions as parents with regard to the needs of the child; **and**

(e) For any child under ten years old, treatment services may be available as defined in section 210.110. Assessments, as defined in section 210.110, may occur to determine which treatment services best meet the child's psychological and social needs. When the assessment indicates that a child's needs can be best resolved by intensive twenty-four hour treatment services, the division will locate, contract, and place the child with the appropriate organizations. This placement will be viewed as the least restrictive for the child based on the assessment;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(6) Payment to the children's services providers and agencies shall be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Contracts shall provide incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

(1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;

(2) Services authorized and necessary to facilitate the outcome target;

(3) Time frames in which services will be delivered; and

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

6. On or before July 15, 2006, and each July fifteenth thereafter that the project is in operation, the division shall submit a report to the general assembly which shall include:

(1) Details about the specifics of the contracts, including the number of children and families served, the cost to the state for contracting such services, the current status of the children and families served, an assessment of the quality of services provided and outcomes achieved, and an overall evaluation of the project; and

(2) Any recommendations regarding the continuation or possible statewide implementation of such project; and

(3) Any information or recommendations directly related to the provision of direct services for children and their families that any of the contracting children's services providers and agencies request to have included in the report.

7. The division shall accept as prima facie evidence of completion of the requirements for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the

following nationally recognized bodies: the Council on Accreditation of Services, Children and Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on Accreditation of Rehabilitation Facilities. The division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted.

8. By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the provisions of this section, and pursuant to this section, shall define implementation plans and dates. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

210.114. QUALIFIED IMMUNITY FOR PRIVATE CONTRACTOR, WHEN — EXCEPTIONS. — 1. Except as otherwise provided in section 207.085, RSMo, a private contractor, as defined in subdivision (4) of section 210.110, with the children's division that receives state moneys from the division or the department for providing services to children and their families shall have qualified immunity from civil liability for providing such services when the child is not in the physical care of such private contractor to the same extent that the children's division has qualified immunity from civil liability when the division or department directly provides such services.

2. This section shall not apply if a private contractor described above knowingly violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to the child abuse and neglect activities of the division or any local ordinance relating to the safety condition of the property.

210.117. CHILD NOT REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — [No**] 1. A** child taken into the custody of the state shall **not** be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, **[**a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this section shall preclude the division from exercising its discretion regarding the placement of a child in a home in which the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this section**] any of the following offenses when a child was the victim:**

(1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

(2) A violation of section 568.020, RSMo;

(3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

(4) A violation of section 568.065, RSMo;

(5) A violation of section 568.080, RSMo;

(6) A violation of section 568.090, RSMo; or

(7) A violation of section 568.175, RSMo.

2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the division may exercise its discretion regarding the placement of a child taken into the custody of the state in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

211.037. NONOFFENDING PARENT, CHILD RETURNED TO CUSTODY OF, WHEN. — 1. For purposes of proceedings and investigations conducted pursuant to this chapter, children shall be promptly returned to the care and custody of a nonoffending parent entitled to physical custody of the child if:

(1) The parents have continuously maintained joint domicile for a period of at least six months prior to the alleged incident or the parents are maintaining separate households; and

(2) A preponderance of the evidence indicates that only one of the parents is the subject of an investigation of abuse or neglect; and

(3) The nonoffending parent does not have a history of criminal behavior, drug or alcohol abuse, child abuse or child neglect, domestic violence, **or** stalking**[**, or full orders of protection entered against them**]** within the past five years; and

(4) The parents are maintaining joint domicile and the offending parent is removed from the home voluntarily or involuntarily, or the parents live separately and the child is removed from the home of the **[**custodial**] offending** parent; and

(5) A nonoffending parent requests custody of the child and agrees to cooperate with any orders of the court limiting contact or establishing visitation with the offending parent and the nonoffending parent complies with such orders.

When the parents maintain joint domicile or comply with court-ordered visitation, there shall be a rebuttable presumption that the nonoffending parent has not committed any violation of sections 568.030, 568.032, 568.045, 568.050, or 568.060, RSMo, or has not engaged in any conduct that would constitute child abuse or neglect under chapter 210, RSMo. In order to rebut the presumption there must be a finding of actual harm or endangerment to the child if the child is placed in the custody of the nonoffending parent.

2. Nothing in this section shall prevent the division or the court from exercising its discretion to return a child or children to the custody of any individual.

211.038. CHILDREN NOT TO BE REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN — DISCRETION TO RETURN, WHEN. — **[**No**] 1. A** child under the jurisdiction of the juvenile court shall **not** be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, **[**a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this section shall preclude the juvenile court from exercising its discretion regarding the placement of a child in a home in which the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this section**] any of the following offenses when a child was the victim:**

(1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

(2) A violation of section 568.020, RSMo;
(3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;
(4) A violation of section 568.065, RSMo;
(5) A violation of section 568.080, RSMo;
(6) A violation of section 568.090, RSMo; or
(7) A violation of section 568.175, RSMo.

2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the juvenile court may exercise its discretion regarding the placement of a child under the jurisdiction of the juvenile court in a home in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

452.375. CUSTODY — DEFINITIONS — FACTORS DETERMINING CUSTODY — PROHIBITED, WHEN — PUBLIC POLICY OF STATE — CUSTODY OPTIONS PLAN, WHEN REQUIRED — FINDINGS REQUIRED, WHEN — EXCHANGE OF INFORMATION AND RIGHT TO CERTAIN RECORDS, FAILURE TO DISCLOSE — FEES, COSTS ASSESSED, WHEN — JOINT CUSTODY NOT TO PRECLUDE CHILD SUPPORT — SUPPORT, HOW DETERMINED — DOMESTIC VIOLENCE OR ABUSE, SPECIFIC FINDINGS. — 1. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Custody", means joint legal custody, sole legal custody, joint physical custody or sole physical custody or any combination thereof;

(2) "Joint legal custody" means that the parents share the decision-making rights, responsibilities, and authority relating to the health, education and welfare of the child, and, unless allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of decision-making rights, responsibilities, and authority;

(3) "Joint physical custody" means an order awarding each of the parents significant, but not necessarily equal, periods of time during which a child resides with or is under the care and supervision of each of the parents. Joint physical custody shall be shared by the parents in such a way as to assure the child of frequent, continuing and meaningful contact with both parents;

(4) "Third-party custody" means a third party designated as a legal and physical custodian pursuant to subdivision (5) of subsection 5 of this section.

2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:

(1) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;

(2) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;

(3) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;

(4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;

(5) The child's adjustment to the child's home, school, and community;

(6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm;

(7) The intention of either parent to relocate the principal residence of the child; and

(8) The wishes of a child as to the child's custodian.

The fact that a parent sends his or her child or children to a home school, as defined in section 167.031, RSMo, shall not be the sole factor that a court considers in determining custody of such child or children.

3. **(1)** In any court proceedings relating to custody of a child, the court shall not award custody or unsupervised visitation of a child to a parent if such parent or any person residing with such parent has been found guilty of, or pled guilty to, **[**a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the awarding of custody or visitation for a child if the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection**] any of the following offenses when a child was the victim:**

(a) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

(b) A violation of section 568.020, RSMo;

(c) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

(d) A violation of section 568.065, RSMo;

(e) A violation of section 568.080, RSMo;

(f) A violation of section 568.090, RSMo; or

(g) A violation of section 568.175, RSMo.

(2) For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in subdivision (1) of this subsection or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the court may exercise its discretion in awarding custody or visitation of a child to a parent if such parent or any person residing with such parent has been found guilty of, or pled guilty to, any such offense.

4. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child, except for cases where the court specifically finds that such contact is not in the best interest of the child, and that it is the public policy of this state to encourage parents to participate in decisions affecting the health, education and welfare of their children, and to resolve disputes involving their children amicably through alternative dispute resolution. In order to effectuate these policies, the court shall determine the custody arrangement which will best assure both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interests of the child.

5. Prior to awarding the appropriate custody arrangement in the best interest of the child, the court shall consider each of the following as follows:

(1) Joint physical and joint legal custody to both parents, which shall not be denied solely for the reason that one parent opposes a joint physical and joint legal custody award. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(2) Joint physical custody with one party granted sole legal custody. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(3) Joint legal custody with one party granted sole physical custody;

(4) Sole custody to either parent; or

(5) Third-party custody or visitation:

(a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or the welfare of the child requires, and it is in the best interests of the child, then custody, temporary custody or visitation may be awarded to any other person or persons deemed by the court to be suitable and able to provide an adequate and stable environment for the child. Before the court awards custody, temporary custody or visitation to a third person under this subdivision, the court shall make that person a party to the action;

(b) Under the provisions of this subsection, any person may petition the court to intervene as a party in interest at any time as provided by supreme court rule.

6. If the parties have not agreed to a custodial arrangement, or the court determines such arrangement is not in the best interest of the child, the court shall include a written finding in the judgment or order based on the public policy in subsection 4 of this section and each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific relevant factors that made a particular arrangement in the best interest of the child. If a proposed custodial arrangement is rejected by the court, the court shall include a written finding in the judgment or order detailing the specific relevant factors resulting in the rejection of such arrangement.

7. Upon a finding by the court that either parent has refused to exchange information with the other parent, which shall include but not be limited to information concerning the health, education and welfare of the child, the court shall order the parent to comply immediately and to pay the prevailing party a sum equal to the prevailing party's cost associated with obtaining the requested information, which shall include but not be limited to reasonable attorney's fees and court costs.

8. As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

9. Any judgment providing for custody shall include a specific written parenting plan setting forth the terms of such parenting plan arrangements specified in subsection 7 of section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan approved and ordered by the court shall be in the court's discretion and shall be in the best interest of the child.

10. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, both parents shall have access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records. If the parent without custody has been granted restricted or supervised visitation because the court has found that the parent with custody or any child has been the victim of domestic violence, as defined in section 455.200, RSMo, by the parent without custody, the court may order that the reports and records made available pursuant to this subsection not include the address of the parent with custody or the child. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or other applicable court order shall specifically allow both parents access to such records and reports.

11. Except as otherwise precluded by state or federal law, if any individual, professional, public or private institution or organization denies access or fails to provide or disclose any and all records and information, including, but not limited to, past and present dental, medical and school records pertaining to a minor child, to either parent upon the written request of such parent, the court shall, upon its finding that the individual, professional, public or private

institution or organization denied such request without good cause, order that party to comply immediately with such request and to pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and court costs associated with obtaining the requested information.

12. An award of joint custody does not preclude an award of child support pursuant to section 452.340 and applicable supreme court rules. The court shall consider the factors contained in section 452.340 and applicable supreme court rules in determining an amount reasonable or necessary for the support of the child.

13. If the court finds that domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, and any other children for whom such parent has custodial or visitation rights from any further harm.

452.400. VISITATION RIGHTS, AWARDED WHEN — HISTORY OF DOMESTIC VIOLENCE, CONSIDERATION OF — PROHIBITED, WHEN — MODIFICATION OF, WHEN — SUPERVISED VISITATION DEFINED — NONCOMPLIANCE WITH ORDER, EFFECT OF — FAMILY ACCESS MOTIONS, PROCEDURE, PENALTY FOR VIOLATION — ATTORNEY FEES AND COSTS ASSESSED, WHEN. — 1. **(1)** A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical health or impair his or her emotional development. The court shall enter an order specifically detailing the visitation rights of the parent without physical custody rights to the child and any other children for whom such parent has custodial or visitation rights. In determining the granting of visitation rights, the court shall consider evidence of domestic violence. If the court finds that domestic violence has occurred, the court may find that granting visitation to the abusive party is in the best interests of the child.

(2) (a) The court shall not grant visitation to the parent not granted custody if such parent or any person residing with such parent has been found guilty of or pled guilty to **[**a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the awarding of custody or visitation for a child if the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection**] any of the following offenses when a child was the victim:**

a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

b. A violation of section 568.020, RSMo;

c. A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

d. A violation of section 568.065, RSMo;

e. A violation of section 568.080, RSMo;

f. A violation of section 568.090, RSMo; or

g. A violation of section 568.175, RSMo.

(b) For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in paragraph (a) of this subdivision or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568,

RSMo, if committed in Missouri, the court may exercise its discretion in granting visitation to a parent not granted custody if such parent or any person residing with such parent has been found guilty of, or pled guilty to, any such offense.

(3) The court shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence, and any other children for whom the parent has custodial or visitation rights from any further harm.

(4) The court, if requested by a party, shall make specific findings of fact to show that the visitation arrangements made by the court best protect the child or the parent or other family or household member who is the victim of domestic violence, or any other child for whom the parent has custodial or visitation rights from any further harm.

2. **(1)** The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical health or impair his or her emotional development.

(2) (a) In any proceeding modifying visitation rights, the court shall not grant unsupervised visitation to a parent if the parent or any person residing with such parent has been found guilty of or pled guilty to **[**a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the placement of a child in a home in which the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection**] any of the following offenses when a child was the victim:**

a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

b. A violation of section 568.020, RSMo;

c. A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

d. A violation of section 568.065, RSMo;

e. A violation of section 568.080, RSMo;

f. A violation of section 568.090, RSMo; or

g. A violation of section 568.175, RSMo.

(b) For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in paragraph (a) of this subdivision or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the division may exercise its discretion regarding the placement of a child taken into the custody of the state in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

(3) When a court restricts a parent's visitation rights or when a court orders supervised visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised visitation may be ordered. "Supervised visitation", as used in this section, is visitation which takes place in the presence of a responsible adult appointed by the court for the protection of the child.

3. The court shall mandate compliance with its order by all parties to the action, including parents, children and third parties. In the event of noncompliance, the aggrieved person may file

a verified motion for contempt. If custody, visitation or third-party custody is denied or interfered with by a parent or third party without good cause, the aggrieved person may file a family access motion with the court stating the specific facts which constitute a violation of the judgment of dissolution or legal separation. The state courts administrator shall develop a simple form for pro se motions to the aggrieved person, which shall be provided to the person by the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerk's offices. The location of the office where the family access motion may be filed shall be conspicuously posted in the court building. The performance of duties described in this section shall not constitute the practice of law as defined in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard court costs otherwise due for instituting a civil action in the circuit court.

4. Within five court days after the filing of the family access motion pursuant to subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable state law, and applicable local or supreme court rules. A copy of the motion shall be personally served upon the respondent by personal process server as provided by law or by any sheriff. Such service shall be served at the earliest time and shall take priority over service in other civil actions, except those of an emergency nature or those filed pursuant to chapter 455, RSMo. The motion shall contain the following statement in boldface type:

"PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:

(1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

(2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

(3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST THE VIOLATOR;

(4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

(5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED PARTY AND THE CHILD; AND

(6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY.".

5. If an alternative dispute resolution program is available pursuant to section 452.372, the clerk shall also provide information to all parties on the availability of any such services, and within fourteen days of the date of service, the court may schedule alternative dispute resolution.

6. Upon a finding by the court pursuant to a motion for a family access order or a motion for contempt that its order for custody, visitation or third-party custody has not been complied with, without good cause, the court shall order a remedy, which may include, but not be limited to:

(1) A compensatory period of visitation, custody or third-party custody at a time convenient for the aggrieved party not less than the period of time denied;

(2) Participation by the violator in counseling to educate the violator about the importance of providing the child with a continuing and meaningful relationship with both parents;

(3) Assessment of a fine of up to five hundred dollars against the violator payable to the aggrieved party;

(4) Requiring the violator to post bond or security to ensure future compliance with the court's access orders; and

(5) Ordering the violator to pay the cost of counseling to reestablish the parent-child relationship between the aggrieved party and the child.

7. The reasonable expenses incurred as a result of denial or interference with custody or visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody or third-party custody, shall be assessed, if requested and for good cause, against the parent or party who unreasonably denies or interferes with visitation, custody or third-party custody. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

8. Final disposition of a motion for a family access order filed pursuant to this section shall take place not more than sixty days after the service of such motion, unless waived by the parties or determined to be in the best interest of the child. Final disposition shall not include appellate review.

9. Motions filed pursuant to this section shall not be deemed an independent civil action from the original action pursuant to which the judgment or order sought to be enforced was entered.

452.490. APPEARANCE OF PARTIES — CHILD — GUARDIAN AD LITEM APPOINTED, FEE — DISQUALIFICATION, WHEN. — 1. The court may order any party to the proceeding who is in this state to appear personally before the court. If the court finds the physical presence of the child in court to be in the best interests of the child, the court may order that the party who has physical custody of the child appear personally with the child.

2. If a party to the proceeding whose presence is desired by the court is outside this state, with or without the child, the court may order that the notice given under section 452.460 include a statement directing that party to appear personally with or without the child.

3. If a party to the proceeding who is outside this state is directed to appear under subsection 1 of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child, if this is just and proper under the circumstances.

4. If the court finds it to be in the best interest of the child that a guardian ad litem be appointed, the court may appoint a guardian ad litem for the child. The guardian ad litem so appointed shall be an attorney licensed to practice law in the state of Missouri. Disqualification of a guardian ad litem shall be ordered in any legal proceeding pursuant to **[**chapter 210, RSMo, or**]** this chapter, upon the filing of a written application by any party within ten days of appointment**[**, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998**]**. Each party shall be entitled to one disqualification of a guardian ad litem **appointed under this subsection** in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown. The guardian ad litem may, for the purpose of determining custody of the child only, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

5. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged.

Approved June 24, 2005

HB 576 [HCS HB 576]

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 laws regarding the procedures of the Small Business Regulatory Fairness Board and the procedure for obtaining judicial review of administrative decisions

AN ACT to repeal sections 536.010, 536.050, 536.100, 536.140, 536.300, 536.305, and 536.310, RSMo, and to enact in lieu thereof eleven new sections relating to small business.

SECTION

A. Enacting clause.
536.010. Definitions.
536.050. Declaratory judgments respecting the validity of rules — fees and expenses — standing, intervention by general assembly.
536.100. Party aggrieved entitled to judicial review.
536.140. Scope of judicial review — judgment — appeals.
536.300. Proposed rules, effect on small business to be determined, exceptions — impact statement to be prepared, when, contents.
536.303. Small business statement required for certain proposed rules, content.
536.305. Small business regulatory fairness board established, members, terms, expenses, meetings — rulemaking authority.
536.310. Authority of board.
536.323. Small business objection to rules, petition may be filed, grounds — procedure for petition.
536.325. Rules affecting small business, list submitted to general assembly and board — availability of list — testimony may be solicited.
536.328. Judicial review for small businesses adversely affected or aggrieved by an agency action, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 536.010, 536.050, 536.100, 536.140, 536.300, 536.305, and 536.310, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 536.010, 536.050, 536.100, 536.140, 536.300, 536.303, 536.305, 536.310, 536.323, 536.325, and 536.328, to read as follows:

536.010. DEFINITIONS. — For the purpose of this chapter:

(1) **"Affected small business" or** "Affects small business", **means** any **potential or actual** requirement imposed upon a small business or minority small business through a state agency's proposed or adopted rule that will cause direct and significant economic burden upon a small business or minority small business**, or that is directly related to the formation, operation, or expansion of a small business**;

(2) "Agency" means any administrative officer or body existing under the constitution or by law and authorized by law or the constitution to make rules or to adjudicate contested cases**, except those in the legislative or judicial branches**;

(3) "Board", **means** the small business regulatory fairness board;

(4) "Contested case" means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing;

(5) The term "decision" includes decisions and orders whether negative or affirmative in form;

(6) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of an existing rule, but does not include:

(a) A statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof;

(b) A declaratory ruling issued pursuant to section 536.050, or an interpretation issued by an agency with respect to a specific set of facts and intended to apply only to that specific set of facts;

(c) An intergovernmental, interagency, or intraagency memorandum, directive, manual or other communication which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof;

(d) A determination, decision, or order in a contested case;

(e) An opinion of the attorney general;

(f) Those portions of staff manuals, instructions or other statements issued by an agency which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the state;

(g) A specification of the prices to be charged for goods or services sold by an agency as distinguished from a license fee, or other fees;

(h) A statement concerning only the physical servicing, maintenance or care of publicly owned or operated facilities or property;

(i) A statement relating to the use of a particular publicly owned or operated facility or property, the substance of which is indicated to the public by means of signs or signals;

(j) A decision by an agency not to exercise a discretionary power;

(k) A statement concerning only inmates of an institution under the control of the department of corrections and human resources or the division of youth services, students enrolled in an educational institution, or clients of a health care facility, when issued by such an agency;

(l) Statements or requirements establishing the conditions under which persons may participate in exhibitions, fairs or similar activities, managed by the state or an agency of the state;

(m) Income tax or sales forms, returns and instruction booklets prepared by the state department of revenue for distribution to taxpayers for use in preparing tax returns;

(7) "Small business", **means** a for-profit enterprise consisting of fewer than **[**fifty**] one hundred** full- or part-time employees;

(8) "State agency" means each board, commission, department, officer or other administrative office or unit of the state other than the general assembly, the courts, the governor, or a political subdivision of the state, existing under the constitution or statute, and authorized by the constitution or statute to make rules or to adjudicate contested cases.

536.050. DECLARATORY JUDGMENTS RESPECTING THE VALIDITY OF RULES — FEES AND EXPENSES — STANDING, INTERVENTION BY GENERAL ASSEMBLY. — 1. The power of the courts of this state to render declaratory judgments shall extend to declaratory judgments respecting the validity of rules, or of threatened applications thereof, and such suits may be maintained against agencies whether or not the plaintiff has first requested the agency to pass upon the question presented. The venue of such suits against agencies shall, at the option of the plaintiff, be in the circuit court of Cole County, or in the county of the plaintiff's residence, or if the 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. Nothing herein contained shall be construed as a limitation on the declaratory or other relief which the courts might grant in the absence of this section.

2. Any person bringing an action under subsection 1 of this section shall not be required to exhaust any administrative remedy if the court determines that:

(1) The administrative agency has no authority to grant the relief sought or the administrative remedy is otherwise inadequate; or

(2) The only issue presented for adjudication is a constitutional issue or other question of law; or

(3) Requiring the person to exhaust any administrative remedy would result in undue prejudice because the person may suffer irreparable harm if unable to secure immediate judicial consideration of the claim. Provided, however, that the provisions of this subsection shall not apply to any matter covered by chapters 288, 302, and 303, RSMo**; or**

(4) The party bringing the action is a small business claiming a material violation of section 536.300 or 536.303 by the state agency requiring the small business impact statement for the amendment or rule.

3. A nonstate party who prevails in an action brought pursuant to subsection 1 of this section shall be awarded reasonable fees and expenses, as defined in section 536.085, incurred by that party in the action.

4. A nonstate party seeking an award of fees and other expenses shall, within thirty days of a final disposition of an action brought pursuant to subsection 1 of this section, submit to the court which rendered the final disposition or judgment an application which shows that the party is a prevailing party and is eligible to receive an award pursuant to this section, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses are computed.

5. A prevailing nonstate party in an agency proceeding shall submit an application for fees and expenses to the court before which the party prevailed. The filing of an application shall not stay the time for appealing the merits of a case. When the state appeals the underlying merits of an adversary proceeding, no decision on the application for fees and other expenses in connection with that adversary proceeding shall be made pursuant to this section until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.

6. The court may either reduce the amount to be awarded or deny any award, to the extent that the prevailing nonstate party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

7. The decision of a court on the application for reasonable fees and expenses shall be in writing, separate from the judgment or order of the court which determined the prevailing party, and shall include written findings and conclusions and the reason or basis therefor. The decision of a court on the application for fees and other expenses shall be final, subject respectively to appeal or judicial review.

8. If a party or the state is dissatisfied with a determination of fees and other expenses made in an action brought pursuant to subsection 1 of this section, that party or the state may, within the time permitted by law, appeal that order or judgment to the appellate court having jurisdiction to review the merits of that order or judgment. The appellate court's determination shall be based solely on the record made before the court below. The court may modify, reverse or reverse and remand the determination of fees and other expenses if the court finds that the award or failure to make an award of fees and other expenses, or the calculation of the amount of the award, was arbitrary and capricious, was unreasonable, was unsupported by competent and substantial evidence, or was made contrary to law or in excess of the court's jurisdiction. Awards made pursuant to this section shall be payable from amounts appropriated therefor. The state agency against which the award was made shall request an appropriation to pay for the award.

9. The general assembly or its designee shall have standing, in law or equity, to intervene in any existing action involving such challenge to agency action. Unless otherwise provided by resolution, the general assembly's designee is the joint committee on administrative rules who may, upon a concurrence of a majority of the committee's members, intervene in the name of the members of the committee in their representative capacity. Nothing in this section shall confer upon the committee any duty to so act or intervene.

536.100. PARTY AGGRIEVED ENTITLED TO JUDICIAL REVIEW. — Any person who has exhausted all administrative remedies provided by law and who is aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, shall be entitled to judicial review thereof, as provided in sections 536.100 to 536.140, unless some other provision for judicial review is provided by statute; provided, however, that nothing in this chapter contained shall prevent any person from attacking any void order of an agency at any time or in any manner that would be proper in the absence of this section. **[**Unreasonable delay on the part of any agency in deciding any contested case shall be grounds for an order of the court either compelling action by the agency or removing the case to the court for decision.**] If the agency, other than the administrative hearing commission or any board established to provide independent review of the decisions of a department or division that is authorized to promulgate rules and regulations under this chapter, fails to issue a final decision in a contested case within the earlier of:**

(1) Sixty days after the conclusion of a hearing on the contested case; or

(2) One hundred eighty days after the receipt by the agency of a written request for the issuance of a final decision, then the person shall be considered to have exhausted all administrative remedies and shall be considered to have received a final decision in favor of the agency and shall be entitled to immediate judicial review as provided in sections 536.100 to 536.140 or other provision for judicial review provided by statute.

536.140. SCOPE OF JUDICIAL REVIEW — JUDGMENT — APPEALS. — 1. The court shall hear the case without a jury and, except as otherwise provided in subsection 4 **of this section**, shall hear it upon the petition and record filed as aforesaid.

2. The inquiry may extend to a determination of whether the action of the agency

(1) Is in violation of constitutional provisions;

(2) Is in excess of the statutory authority or jurisdiction of the agency;

(3) Is unsupported by competent and substantial evidence upon the whole record;

(4) Is, for any other reason, unauthorized by law;

(5) Is made upon unlawful procedure or without a fair trial;

(6) Is arbitrary, capricious or unreasonable;

(7) Involves an abuse of discretion.

The scope of judicial review in all contested cases, whether or not subject to judicial review pursuant to sections 536.100 to 536.140, and in all cases in which judicial review of decisions of administrative officers or bodies, whether state or local, is now or may hereafter be provided by law, shall in all cases be at least as broad as the scope of judicial review provided for in this subsection; provided, however, that nothing herein contained shall in any way change or affect the provisions of sections 311.690 and 311.700, RSMo.

3. Whenever the action of the agency being reviewed does not involve the exercise by the agency of administrative discretion in the light of the facts, but involves only the application by the agency of the law to the facts, the court may **[**weigh the evidence for itself and determine the facts accordingly. The law applied by the agency as aforesaid may include the agency's own rules. In making such determination the court shall give due weight to the opportunity of the agency to observe the witnesses, and to the expertness and experience of the particular agency**] upon application of any party conduct a de novo review of the agency decision**.

4. Wherever under subsection 3 **of this section** or otherwise the court is entitled to weigh the evidence and determine the facts for itself, the court may hear and consider additional evidence if the court finds that such evidence in the exercise of reasonable diligence could not have been produced or was improperly excluded at the hearing before the agency. Wherever the court is not entitled to weigh the evidence and determine the facts for itself, if the court finds that there is competent and material evidence which, in the exercise of reasonable diligence, could not have been produced or was improperly excluded at the hearing before the agency, the court may remand the case to the agency with directions to reconsider the same in the light of

such evidence. The court may in any case hear and consider evidence of alleged irregularities in procedure or of unfairness by the agency, not shown in the record.

5. The court shall render judgment affirming, reversing, or modifying the agency's order, and may order the reconsideration of the case in the light of the court's opinion and judgment, and may order the agency to take such further action as it may be proper to require; but the court shall not substitute its discretion for discretion legally vested in the agency**, unless the court determines that the agency decision was arbitrary or capricious**.

6. Appeals may be taken from the judgment of the court as in other civil cases.

536.300. PROPOSED RULES, EFFECT ON SMALL BUSINESS TO BE DETERMINED, EXCEPTIONS — IMPACT STATEMENT TO BE PREPARED, WHEN, CONTENTS. — 1. Prior to submitting proposed rules for adoption, amendment, revision, or repeal, **under this chapter** the state agency shall determine whether the proposed rulemaking affects small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking. This requirement shall not apply to emergency rulemaking pursuant to section 536.025 or to constitutionally authorized rulemaking pursuant to article IV, section 45 of the Missouri Constitution. This requirement shall be in addition to the fiscal note requirement of sections 536.200 to 536.210.

2. If the proposed rules affect small businesses, the state agency shall **consider creative, innovative, or flexible methods of compliance for small business and** prepare a small business impact statement to be submitted to the secretary of state and the joint committee on administrative rules with the proposed rules. A copy of the proposed rules and the small business impact statement shall also be filed with the board on the same date as they are filed with the secretary of state. **Such business impact statement and proposed rules shall be submitted to the board prior to providing notice for a public hearing.** The statement shall provide a reasonable determination of the following:

(1) The methods the agency considered or used to reduce the impact on small businesses such as consolidation, simplification, differing compliance, or reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating techniques;

(2) How the agency involved small businesses in the development of the proposed rules;

(3) The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used, if such costs are capable of determination;

(4) A description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected, except in cases where the state agency has filed a fiscal note that complies with all of the provisions of section 536.205; **[**and**]**

(5) In dollar amounts, the increase in the level of direct costs, such as fees or administrative penalties, and indirect costs, such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance if such costs are capable of determination, except in cases where the state agency has filed a fiscal note that complies with all of the provisions of section 536.205**;**

(6) The business that will be directly affected by, bear the cost of, or directly benefit from the proposed rules;

(7) Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

3. Any proposed rule that is required to have a small business impact statement but does not include such a statement shall be invalid and the secretary of state should not publish the rule until such time as the statement is provided. If the state agency determines that its proposed rule does not affect small business, the state agency shall so certify this finding in the transmittal letter

to the secretary of state, stating that it has determined that such proposed rule will not have an economic impact on small businesses and the secretary of state shall publish the rule.

4. Sections 536.300 to 536.310 shall not apply where the proposed rule is being promulgated on an emergency basis, where the rule is federally mandated, or where the rule substantially codifies existing federal or state law. Notwithstanding the provisions of this section, federally mandated regulations are subject to the federal Regulatory Flexibility Act as amended by the Small Business Regulatory and Enforcement Fairness Act of 1996, P.L. 96-354, as amended by P.L. 104.121. Any federally mandated regulations that do not comply with these acts shall be subject to this section.

536.303. SMALL BUSINESS STATEMENT REQUIRED FOR CERTAIN PROPOSED RULES, CONTENT. — 1. For any proposed rules that affect small business, the agency shall also submit a small business statement to the board after a public hearing is held. This section shall not apply to emergency rules. The small business statement required by this section shall provide the following information:

(1) A description of how the opinions or comments from affected small businesses were solicited;

(2) A summary of the public and small business comments;

(3) A summary of the agency's response to those comments; and

(4) The number of persons who attended the public hearing, testified at the hearing, and submitted written comments.

2. If a request to change the proposed rule was made at the hearing in a way that affected small business, a statement of the reasons for adopting the proposed rule without the requested change shall be included in the small business statement.

536.305. SMALL BUSINESS REGULATORY FAIRNESS BOARD ESTABLISHED, MEMBERS, TERMS, EXPENSES, MEETINGS — RULEMAKING AUTHORITY. — 1. There is hereby established the "Small Business Regulatory Fairness Board". The department of economic development shall provide staff support for the board.

2. The board shall be composed of nine members appointed in the following manner:

(1) One member who is the chair of the minority business advocacy commission;

(2) One member appointed by the president pro tempore of the senate;

(3) One member appointed by the minority leader of the senate;

(4) One member appointed by the speaker of the house of representatives;

(5) One member appointed by the minority leader of the house of representatives; and

(6) Four members appointed by the governor.

3. Each member of the board, except for the public members and the chair of the minority business advocacy commission, shall be a current or former owner or officer of a small business. All members of the board shall represent a variety of small businesses, both rural and urban, and **be** from a variety of geographical areas of this state, provided that no more than two members shall represent the same type of small business.

4. Members of the board shall serve a term of three years and may be reappointed at the conclusion of the term. No member shall serve more than three consecutive terms. Appointments shall be made so that one-third of the membership of the board shall terminate each year. The governor shall appoint the initial chairperson of the board and a majority of the board shall elect subsequent chairpersons. The chairperson shall serve as chair for a term of not more than two years.

5. Members of the board shall serve without compensation, but may be reimbursed for reasonable and necessary expenses relating to their performance of duties, according to the rules and regulations of travel issued by the office of administration. Members will be required to submit an expense account form in order to obtain reimbursement for expenses incurred.

6. The board shall meet as often as necessary, as determined by the chairperson of the board. All meetings of the board will be conducted in accordance with the governmental bodies and records act, chapter 610, RSMo, including closed sessions. Notice will be posted and will be provided to the joint committee on administrative rules. Minutes of the meetings shall be provided to all members, the office of the governor, and the joint committee on administrative rules.

7. In addition to any other powers provided by sections 536.300 to 536.328, the board may adopt any rules necessary to implement sections 536.300 to 536.328 and take any action necessary to effectuate the purposes of sections 536.300 to 536.328. Any rule or portion of a rule, as that term is defined in section 536.010, 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 this chapter and, if applicable, section 536.028. This section and this chapter are nonseverable and if any of the powers vested with the general assembly pursuant to this chapter to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

536.310. AUTHORITY OF BOARD. — 1. The board **[**may**] shall**:

(1) Provide state agencies with input regarding rules that adversely affect small businesses;

(2) Solicit input and conduct hearings from small business owners and state agencies regarding any rules proposed by a state agency; and

(3) Provide an evaluation report to the governor and the general assembly, including any recommendations and evaluations of state agencies regarding regulatory fairness for Missouri's small businesses. The report shall include comments from small businesses, state agency responses, and a summary of any public testimony on rules brought before the board for consideration.

2. In any inquiry conducted by the board because of a request from a small business owner, the board may make recommendations to the state agency. If the board makes recommendations, such recommendations shall be based on any of the following grounds:

(1) The rule creates an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs the rule's benefits to the public; or

(2) New or significant economic information indicates the proposed rule would create an undue impact on small businesses; or

(3) Technology, economic conditions, or other relevant factors justifying the purpose for the rule has changed or no longer exists; or

(4) If the rule was adopted after August 28, 2004, whether the actual effect on small businesses was not reflected in or significantly exceeded the small business impact statement submitted prior to the adoption of the rules.

536.323. SMALL BUSINESS OBJECTION TO RULES, PETITION MAY BE FILED, GROUNDS — PROCEDURE FOR PETITION. — 1. In addition to the basis for filing a petition provided in section 536.041, any affected small business may file a written petition with the agency that has adopted rules objecting to all or part of any rule affecting small business on any of the following grounds:

(1) The actual effect on small business was not reflected in or significantly exceeded the small business impact statement submitted prior to the adoption of the rules;

(2) The small business impact statement did not consider new or significant economic information that reveals an undue impact on small business; or

(3) The impacts were not previously considered at the public hearing on the rules.

2. For any rule adopted prior to August 28, 2005, an affected small business may file a written petition with the agency that adopted the rule objecting to all or part of any rule affecting small business on any of the following grounds:

(1) The rule creates an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs the rule's benefit to the public;

(2) The rule duplicates, overlaps, or conflicts with rules adopted by the agency or any other agency or violates the substantive authority under which the rule was adopted; or

(3) The technology, economic conditions, or other relevant factors justifying the purpose for the rule has changed or no longer exist.

3. Upon submission of the petition, the agency shall forward a copy of the petition to the board and the joint committee on administrative rules, as required by section 536.041, as notification of a petition filed under sections 536.300 to 536.328. The agency shall promptly consider the petition and may seek advice and counsel regarding the petition. Within sixty days after the receipt of the petition, the agency shall determine whether the impact statement or public hearing addressed the actual and significant impact on small business. The agency shall submit a written response of the agency's determination to the board within sixty days of the receipt of the petition. If the agency determines that the petition merits the adoption, amendment, or repeal of a rule, it may initiate proceedings in accordance with the applicable requirements of this chapter.

4. If the agency determines that the petition does not merit the adoption, amendment, or repeal of a rule, any affected small business may seek a review of the decision by the board. The board may convene a hearing or by other means solicit testimony that will assist in its determination of whether to recommend that the agency initiate proceedings in accordance with this chapter. For rules adopted after August 28, 2005, the board shall base its recommendations on any of the following reasons:

(1) The actual effect on small business was not reflected in or significantly exceeded the impact statement submitted prior to the adoption of the rule;

(2) The impact statement did not consider new or significant economic information that reveals an undue impact on small business;

(3) Such impacts were not previously considered by the agency; or

(4) Such impacts were not previously considered at the public hearing on the rules.

5. For rules adopted prior to August 28, 2005, the board shall base its recommendations on any of the following reasons:

(1) The rules created an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;

(2) The rules duplicate, overlap, or conflict with rules adopted by the agency or any other agency or violate the substantive authority under which the rules were adopted; or

(3) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

6. The board shall make an evaluation report to the governor and the general assembly on rulemaking proceedings, comments from small business, and agency response as provided in this section. The governor or general assembly may subsequently take such action in response to the evaluation report and agency response as they find appropriate.

536.325. RULES AFFECTING SMALL BUSINESS, LIST SUBMITTED TO GENERAL ASSEMBLY AND BOARD — AVAILABILITY OF LIST — TESTIMONY MAY BE SOLICITED. — 1. Each agency with rules that affect small business shall submit by June thirteenth of each odd-numbered year a list of such rules to the general assembly and the board. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify its continued existence. The general assembly may subsequently take such action in response to the report as it finds appropriate.

2. The board shall provide to the head of each agency a list of any rules adopted by the agency that affect small business and have generated complaints or concerns, including any rules that the board determines may duplicate, overlap, or conflict with other rules or exceed statutory authority. Within forty-five days after being notified by the board the

list of rules adopted, the agency shall submit a written report to the board in response to the complaints or concerns. The agency shall also state whether the agency has considered the continued need for the rules and the degree to which technology, economic conditions, and other relevant factors may have diminished or eliminated the need for maintaining the rules.

3. The board may solicit testimony from the public at a public meeting regarding any report submitted by the agency under this section. The board shall submit an evaluation report to the governor and the general assembly regarding small business comments, agency response, and public testimony on rules in this section. The governor and the general assembly may take such action in response to the report as they find appropriate.

536.328. JUDICIAL REVIEW FOR SMALL BUSINESSES ADVERSELY AFFECTED OR AGGRIEVED BY AN AGENCY ACTION, PROCEDURE. — For any regulation subject to sections 536.300 to 536.328, a small business that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 536.300 to 536.328. Judicial review shall be commenced in the circuit court of the county in which the small business has its primary place of business, or in Cole County. If the small business does not have a primary place of business in the state, proper venue shall be in Cole County. Notwithstanding any provisions of this chapter to the contrary, an affected small business may seek such judicial review during the period beginning on the date the proposed rule becomes final and ending one year later.

Approved July 6, 2005

HB 577 [HCS HB 577]

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

Increases from $1,500 to $5,000 per annum the amount that public officials or employees can accept for services or for selling, renting, or leasing property to their political subdivision

AN ACT to repeal sections 105.454 and 105.458, RSMo, and to enact in lieu thereof two new sections relating to prohibited acts by certain public officials and employees.

SECTION
A. Enacting clause.
105.454. Additional prohibited acts by certain elected and appointed public officials and employees, exceptions.
105.458. Prohibited acts by members of governing bodies of political subdivisions, exceptions.

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

SECTION A. ENACTING CLAUSE. — Sections 105.454 and 105.458, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 105.454 and 105.458, to read as follows:

105.454. ADDITIONAL PROHIBITED ACTS BY CERTAIN ELECTED AND APPOINTED PUBLIC OFFICIALS AND EMPLOYEES, EXCEPTIONS. — No elected or appointed official or employee of the state or any political subdivision thereof, serving in an executive or administrative capacity, shall:

(1) Perform any service for any agency of the state, or for any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power for receipt or payment of any compensation, other than of the compensation provided for the performance of his or her official duties, in excess of five hundred dollars per transaction or **[**one thousand five hundred**] five thousand** dollars per annum**[**, or in the case of a school board five thousand dollars per annum**]**, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received;

(2) Sell, rent or lease any property to any agency of the state, or to any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power and received consideration therefor in excess of five hundred dollars per transaction or **[**one thousand five hundred**] five thousand** dollars per year, **[**or in the case of a school board five thousand dollars per annum,**]** unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(3) Participate in any matter, directly or indirectly, in which he or she attempts to influence any decision of any agency of the state, or political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power, when he or she knows the result of such decision may be the acceptance of the performance of a service or the sale, rental, or lease of any property to that agency for consideration in excess of five hundred dollars' value per transaction or **[**one thousand five hundred**] five thousand** dollars' value per annum to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(4) Perform any services during the time of his or her office or employment for any consideration from any person, firm or corporation, other than the compensation provided for the performance of his or her official duties, by which service he or she attempts to influence a decision of any agency of the state, or of any political subdivision in which he or she is an officer or employee or over which he or she has supervisory power;

(5) Perform any service for consideration, during one year after termination of his or her office or employment, by which performance he or she attempts to influence a decision of any agency of the state, or a decision of any political subdivision in which he or she was an officer or employee or over which he or she had supervisory power, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation therefor, in any adversary proceeding or in the preparation or filing of any public document or to prohibit an employee of the executive department from being employed by any other department, division or agency of the executive branch of state government. For purposes of this subdivision, within ninety days after assuming office, the governor shall by executive order designate those members of his or her staff who have supervisory authority over each department, division or agency of state government for purposes of application of this subdivision. The executive order shall be amended within ninety days of any change in the supervisory assignments of the governor's staff. The governor shall designate not less than three staff members pursuant to this subdivision;

(6) Perform any service for any consideration for any person, firm or corporation after termination of his or her office or employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment.

105.458. PROHIBITED ACTS BY MEMBERS OF GOVERNING BODIES OF POLITICAL SUBDIVISIONS, EXCEPTIONS. — 1. No member of any legislative or governing body of any political subdivision of the state shall:

(1) Perform any service for such political subdivision or any agency of the political subdivision for any consideration other than the compensation provided for the performance of his or her official duties; or

(2) Sell, rent or lease any property to the political subdivision or any agency of the political subdivision for consideration in excess of five hundred dollars per transaction or **[**one thousand five hundred**] five thousand** dollars per annum unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received; or

(3) Attempt, for any compensation other than the compensation provided for the performance of his or her official duties, to influence the decision of any agency of the political subdivision on any matter; except that, this provision shall not be construed to prohibit such person from participating for compensation in any adversary proceeding or in the preparation or filing of any public document or conference thereon.

2. No sole proprietorship, partnership, joint venture, or corporation in which any member of any legislative body of any political subdivision is the sole proprietor, a partner having more than a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of the outstanding shares of any class of stock, shall:

(1) Perform any service for the political subdivision or any agency of the political subdivision for any consideration in excess of five hundred dollars per transaction or **[**one thousand five hundred**] five thousand** dollars per annum unless the transaction is made pursuant to an award on a contract let after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received;

(2) Sell, rent or lease any property to the political subdivision or any agency of the political subdivision where the consideration is in excess of five hundred dollars per transaction or **[**one thousand five hundred**] five thousand** dollars per annum unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.

Approved July 6, 2005

HB 596 [HB 596]

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

Allows employers to provide or contract for health insurance at reduced rates for employees who do not use tobacco products

AN ACT to repeal section 290.145, RSMo, and to enact in lieu thereof two new sections relating to health insurance benefits for employees.

SECTION

A. Enacting clause.
285.125. Reduced health care premiums for nonsmokers permitted.
290.145. Discrimination, refusal to hire or discharge employee for alcohol or tobacco use not during working hours, prohibited, exception — not cause for legal actions.

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

SECTION A. ENACTING CLAUSE. — Section 290.145, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 285.125 and 290.145, to read as follows:

285.125. REDUCED HEALTH CARE PREMIUMS FOR NONSMOKERS PERMITTED. — Notwithstanding any other provision of law to the contrary, an employer shall be permitted to provide or contract for health insurance benefits at a reduced premium rate for employees who do not smoke or use tobacco products.

290.145. DISCRIMINATION, REFUSAL TO HIRE OR DISCHARGE EMPLOYEE FOR ALCOHOL OR TOBACCO USE NOT DURING WORKING HOURS, PROHIBITED, EXCEPTION — NOT CAUSE FOR LEGAL ACTIONS. — It shall be an improper employment practice for an employer to refuse to hire, or to discharge, any individual, or to otherwise disadvantage any individual, with respect to compensation, terms or conditions of employment because the individual uses lawful alcohol or tobacco products off the premises of the employer during hours such individual is not working for the employer, unless such use interferes with the duties and performance of the employee, **[**his**] the employee's** coworkers, or the overall operation of the employer's business**; except that, nothing in this section shall prohibit an employer from providing or contracting for health insurance benefits at a reduced premium rate for employees who do not smoke or use tobacco products**. Religious organizations and church-operated institutions, and not-for-profit organizations whose principal business is health care promotion shall be exempt from the provisions of this section. The provisions of this section shall not be deemed to create a cause of action for injunctive relief, damages or other relief.

Approved July 6, 2005

HB 600 [HB 600]

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

Requires applicants for licensure as professional counselors, after August 28, 2007, to complete a minimum of three hours of graduate-level course work in diagnostic systems

AN ACT to repeal section 337.510, RSMo, and to enact in lieu thereof one new section relating to licensing requirements for professional counselors.

SECTION

A. Enacting clause.

337.510. Education, experience requirements for licensure — reciprocity — provisional professional counselor license issued, when, requirements — renewal license fee.

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

SECTION A. ENACTING CLAUSE. — Section 337.510, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 337.510, to read as follows:

337.510. EDUCATION, EXPERIENCE REQUIREMENTS FOR LICENSURE — RECIPROCITY — PROVISIONAL PROFESSIONAL COUNSELOR LICENSE ISSUED, WHEN, REQUIREMENTS — RENEWAL LICENSE FEE. — 1. Each applicant for licensure as a professional counselor shall furnish evidence to the committee that:

(1) The applicant has met any one of the three following education-experience requirements:

(a) The applicant has received a doctoral degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has

completed at least one year of acceptable supervised counseling experience subsequent to receipt of the doctoral degree; or

(b) The applicant has received a specialist's degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the specialist's degree; or

(c) The applicant has received at least a master's degree with a major in counseling, or its equivalent, from an acceptable educational institution as defined by division rules, and has completed two years of acceptable supervised counseling experience subsequent to receipt of the master's degree. An applicant may substitute thirty semester hours of post-master's graduate study, or their equivalent, for one of the two required years of acceptable supervised counseling experience, if such hours are clearly related to the field of professional counseling and are earned from an acceptable educational institution**[.];**

(2) **After August 28, 2007, each applicant shall have completed a minimum of three hours of graduate level coursework in diagnostic systems in the curriculum leading to his or her degree;**

(3) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics.

2. A licensed professional counselor who has had no violations and no suspensions and no revocation of a license to practice professional counseling in any jurisdiction may receive a license in Missouri provided said licensed professional counselor passes a written examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.500, and meets one of the following criteria:

(1) Is a member in good standing and holds a certification from the National Board for Certified Counselors;

(2) Is currently licensed or certified as a licensed professional counselor in another state, territory of the United States, or the District of Columbia; and

(a) Meets one of the educational standards set forth in paragraphs (a) and (b) of subdivision (1) of subsection 1 of this section;

(b) Has been licensed for the preceding five years; and

(c) Has had no disciplinary action taken against the license for the preceding five years; or

(3) Is currently licensed or certified as a professional counselor in another state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.

3. Any person who previously held a valid unrevoked, unsuspended license as a professional counselor in this state and who held a valid license in another state at the time of application to the committee shall be granted a license to engage in professional counseling in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.507.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.500 to 337.540 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) and (2) of subsection 1 of this section or with the provisions of subsection 2 or 3 of this section. The division shall issue a provisional professional counselor license to any applicant who meets all requirements of subdivisions (1) and (2) of subsection 1 of this section, but who has not completed the required one or two years of acceptable supervised counseling experience required by paragraphs (a) to (c) of subdivision (1) of subsection 1 of this section, and such applicant may reapply for licensure as a professional counselor upon completion of such acceptable supervised counseling experience.

5. All persons licensed to practice professional counseling in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the committee

satisfactory evidence of the completion of the requisite number of hours of continuing education, which shall be no more than forty hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of the illness of the licensee or for other good cause.

Approved July 6, 2005

HB 617 [SS SCS HB 617]

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

Provides a method for any county which is a member of the Upper White River Basin Watershed Improvement District to opt out and changes the laws regarding well-volume monitoring and sewage disposal systems

AN ACT to repeal sections 249.1150, 249.1152, 249.1154, 640.635, 644.076, 701.031, 701.038, and 701.053, RSMo, and to enact in lieu thereof five new sections relating to watershed districts.

SECTION

A. Enacting clause.
249.1150. District authorized, opt out procedure, powers — resolution may be adopted by county commission for service by district — board of trustees, members, terms — maintenance plan required, when — property tax levy, ballot form — termination of tax, procedure (Barry, Christian, Douglas, Greene, Ozark, Stone, Taney, Webster, and Wright counties).
644.076. Unlawful acts prohibited — false statements and negligent acts prohibited — penalties — exception.
701.031. Disposal of sewage, who, how, exception.
701.038. Sewage complaints, investigation by department, when — right to inspect adjoining property, procedure requiring notice, exception.
701.053. Registered on-site disposal system contractor, form, qualifications — registration issued by county to be deemed state registration.
249.1152. Resolution or petition, contents — county order or ordinance, contents — hearing procedures — property tax levy, ballot form — board of trustees created, members, terms — authority of district — dissolution of a district, procedures.
249.1154. Groundwater depletion areas designated — volume monitoring may be required.
640.635. Wastewater analysis, license required, criteria — rulemaking authority — fee, rate.

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

SECTION A. ENACTING CLAUSE. — Sections 249.1150, 249.1152, 249.1154, 640.635, 644.076, 701.031, 701.038, and 701.053, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 249.1150, 644.076, 701.031, 701.038, and 701.053, to read as follows:

249.1150. DISTRICT AUTHORIZED, OPT OUT PROCEDURE, POWERS — RESOLUTION MAY BE ADOPTED BY COUNTY COMMISSION FOR SERVICE BY DISTRICT — BOARD OF TRUSTEES, MEMBERS, TERMS — MAINTENANCE PLAN REQUIRED, WHEN — PROPERTY TAX LEVY, BALLOT FORM — TERMINATION OF TAX, PROCEDURE (BARRY, CHRISTIAN, DOUGLAS, GREENE, OZARK, STONE, TANEY, WEBSTER, AND WRIGHT COUNTIES). — 1. There is hereby created within any county of the third classification without a township form of government and with more than thirty-four thousand but less than thirty-four thousand one hundred inhabitants, any county of the second classification without a township form of government and with more than fifty-four thousand two hundred but less than fifty-four thousand three hundred inhabitants,

any county of the third classification without a township form of government and with more than thirteen thousand seventy-five but less than thirteen thousand one hundred seventy-five inhabitants, any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants, any 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, any county of the third classification without a township form of government and with more than twenty-eight thousand six hundred but less than twenty-eight thousand seven hundred inhabitants, any county of the first classification with more than thirty-nine thousand seven hundred but less than thirty-nine thousand eight hundred inhabitants, any 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, and any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants, the Upper White River Basin Watershed Improvement District. The watershed improvement district is authorized to own, install, operate, and maintain decentralized or individual on-site wastewater treatment plants. The watershed improvement district created under this section shall be a body corporate and a political subdivision of the state of Missouri, shall be capable of suing and being sued in contract in its corporate name, and shall be capable of holding such real and personal property necessary for corporate purposes. The district shall implement procedures to regulate the area within the district and to educate property owners within the district about the requirements imposed by the district.

2. Any county included in the Upper White River Basin Watershed Improvement District, as established in subsection 1 of this section, may choose to opt out of the district in one of two ways:

(1) Upon the filing of a petition signed by at least twenty percent of the property owners residing within the county, a proposal is submitted to the qualified voters within the district boundaries. The ballot of submission shall be in substantially the following form:

Shall the county of ..... opt out of the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to opt out of district, then the county shall no longer be included in the Upper White River Basin Watershed Improvement district, and shall cease all imposition, collection, and assessment of any taxes associated with that district, beginning on the first day of the first month following the election. If a simple majority of the votes cast in the county opposes the proposal to opt out of the district, then the county shall remain a part of the Upper White River Basin Watershed Improvement District. However, if a proposal to opt out of the district is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section; or

(2) Upon the issuance of an order by the county commission, a proposal is submitted to the qualified voters within the district boundaries to opt out of the Upper White River Basin Watershed Improvement District. The ballot of submission shall be in substantially the following form:

Shall the county of .....opt out of the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to opt out of the Upper White River Basin Watershed Improvement District, then the county shall no longer be included in the Upper White River Basin Watershed Improvement District, and shall cease all imposition, collection, and assessment of any taxes associated with that District, beginning on the first day of the first month following the election. If a simple majority of the votes cast in the county opposes the proposal to opt out of the Upper White River Basin Watershed Improvement District, then the county shall remain a part of the Upper White River Basin Watershed Improvement District. However, if a proposal to opt out of the Upper White River Basin Watershed Improvement District, is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

3. Any county who has successfully chosen to opt out of the Upper White River Basin Watershed Improvement District under the provisions of subsection 2 of this section, shall be allowed to rejoin the district at any time, provided the county submits the proposal to rejoin the district in one of two ways:

(1) Upon the filing of a petition signed by at least twenty percent of the property owners residing within the county, a proposal is submitted to the qualified voters within the county. The ballot of submission shall be in substantially the following form:

Shall the county of .....rejoin the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to rejoin the Upper White River Basin Watershed Improvement District, then the county shall rejoin the district. If a simple majority of the votes cast in the county opposes the proposal to rejoin the district, then the county shall remain outside the Upper White River Basin Watershed Improvement District. However, if a proposal to rejoin the Upper White River Basin Watershed Improvement District, is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section; or

(2) Upon the issuance of an order by the county commission, a proposal is submitted to the qualified voters within the district boundaries to rejoin the Upper White River Basin Watershed Improvement District. The ballot of submission shall be in substantially the following form:

Shall the county of .....rejoin the Upper White River Basin Watershed Improvement District?

[ ] 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 simple majority of the votes cast in the county favors the proposal to rejoin the Upper White River Basin Watershed Improvement District, then the county shall rejoin the Upper White River Basin Watershed Improvement District. If a simple majority of the votes cast in the county opposes the proposal to rejoin the Upper White River Basin Watershed Improvement District, then the county shall remain outside the Upper White River Basin Watershed Improvement District. However, if a proposal to rejoin the Upper White River Basin Watershed Improvement District, is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

[2.**] 4.** The watershed improvement district created under this section shall have the power to borrow money and incur indebtedness and evidence the same by certificates, notes, or

debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property within the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property within the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

[3.**]** **5.** The county commission of any county located within the watershed improvement district may authorize individual properties to be served by the district by adoption of a resolution or upon the filing of a petition signed by at least twenty percent of the property owners of the proposed area. The resolution or petition shall describe generally the size and location of the proposed area.

[4.**]** **6.** In the event that any property within the watershed improvement district proposed under this section lies within or is serviced by any existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed improvement district formed under this section unless the existing sewer district agrees to refrain from providing service or to discontinue service to the property. No property shall become part of the watershed district until the owner of that property has paid in full all outstanding costs owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

[5.**]** **7.** Upon the creation of the watershed improvement district as authorized by this section, a board of trustees for the district consisting of nine members shall be appointed. The governing body of each county shall appoint one member to serve on the board. No trustee shall reside in the same county as another trustee. Of the initial trustees appointed, five shall serve terms of one year, and four shall serve terms of two years, as determined by lot. After the initial appointments of the trustees, the successor trustees shall reside in the same county as the prior trustee and be elected by the resident property owners of their county within the district. Each trustee may be elected to no more than five consecutive two-year terms. Vacancies shall be filled by the board. Each trustee shall serve until a successor is elected and sworn. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. The board shall enter into contracts with any person or entity for the maintenance, administrative, or support work required to administer the district. The board may charge reasonable fees and submit proposals to levy and impose property taxes to fund the operation of the district to the qualified voters in the district, but such proposals shall not become effective unless a majority of the qualified voters in the district voting on the proposals approve the proposed levy and rate of tax. The board may adopt resolutions necessary to the operation of the district.

[6.**]** **8.** No service shall be initiated to any property lying within the watershed improvement district created under this section unless the property owner elects to have the service provided by the district.

[7.**]** **9.** Any on-site wastewater treatment system installed on any property that participates in the watershed improvement district formed under this section shall meet all applicable standards for such on-site wastewater treatment systems under sections 701.025 to 701.059,

RSMo, and as required by rules or regulations promulgated by the board of trustees and the appropriate state agencies.

[8.**] 10.** Property owners participating in the watershed improvement district formed under this section shall be required as a condition of continued participation to have a maintenance plan approved by the watershed improvement district for the on-site wastewater treatment systems on their properties. Such property owners shall also execute a utilities easement to allow the district access to the system for maintenance purposes and inspections. The property owner shall provide satisfactory proof that periodic maintenance is performed on the sewage system. At a minimum the system shall be installed and maintained according to the manufacturer's recommendations. The level of satisfactory proof required and the frequency of periodic proof shall be determined by the board of trustees.

[9.**] 11.** A district established under this section may, at a general or primary election, submit to the qualified voters within the district boundaries a real property tax that shall not exceed five cents per one hundred dollars assessed valuation to fund the operation of the district. The ballot of submission shall be in substantially the following form:

Shall the ..... (name of district) impose a real property tax within the district at a rate of not more than ..... (insert amount) dollars per hundred dollars of assessed valuation to fund the operation of the district?

[ ] 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 in each county that is part of the district favor the proposal, then the real property tax shall become effective in the district on the first day of the year following the year of the election. If a majority of the votes cast in each county that is a part of the district oppose the proposal, then that county shall not impose the real property tax authorized in this section until after the county governing body has submitted another such real property tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a real property tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

[10.**] 12.** The real property tax authorized by this section is in addition to all other real property taxes allowed by law.

[11.**] 13.** Once the real property tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the tax. The tax shall not be abolished or terminated while the district has any financing or other obligations outstanding. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities.

14. The governing body of any county included in the Upper White River Basin Watershed Improvement District established in section 249.1150 may designate groundwater depletion areas within specific areas of the county and may require well volume monitoring. However, any county included in this district may choose not to require well volume monitoring.

644.076. UNLAWFUL ACTS PROHIBITED — FALSE STATEMENTS AND NEGLIGENT ACTS PROHIBITED — PENALTIES — EXCEPTION. — 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission. In the event the commission or the director determines that any provision of sections 644.006 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or

determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission, the chair of a watershed district's board of trustees created under section 249.1150 **[**or 249.1152**]**, or the director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department pursuant to this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to sections 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months, or by both.

3. Any person who willfully or negligently commits any violation set forth pursuant to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions for violation of the same provision of this section by any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

4. The liabilities which shall be imposed pursuant to any provision of sections 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe.

701.031. DISPOSAL OF SEWAGE, WHO, HOW, EXCEPTION. — Property owners of all buildings where people live, work or assemble shall provide for the sanitary disposal of all domestic sewage. Except as provided in this section, sewage and waste from such buildings shall be disposed of by discharging into a sewer system regulated pursuant to chapter 644, RSMo, or shall be disposed of by discharging into an on-site sewage disposal system operated as defined by rules promulgated pursuant to sections 701.025 to 701.059. Any person installing on-site sewage disposal systems shall be registered to do so by the department of health and senior services. The owner of a single-family residence lot consisting of three acres or more, or the owner of a residential lot consisting of ten acres or more with no single-family residence on-site sewage disposal system located within three hundred sixty feet of any other on-site sewage disposal system and no more than one single-family residence per each ten acres in the aggregate, except lots adjacent to lakes operated by the Corps of Engineers or by a public utility, shall be excluded from the provisions of sections 701.025 to 701.059 and the rules promulgated pursuant to sections 701.025 to 701.059, including provisions relating to the construction, operation, major modification and major repair of on-site disposal systems, when all points of

the system are located in excess of ten feet from any adjoining property line and no effluent enters an adjoining property, contaminates surface waters or groundwater or creates a nuisance as determined by a readily available scientific method. Except as provided in this section, any construction, operation, major modification or major repair of an on-site sewage disposal system shall be in accordance with rules promulgated pursuant to sections 701.025 to 701.059, regardless of when the system was originally constructed. The provisions of subdivision (2) of subsection 1 of section 701.043 shall not apply to lots located in subdivisions under the jurisdiction of the department of natural resources which are required by a consent decree, in effect on or before May 15, 1984, to have class 1, National Sanitation Federation (NSF) aerated sewage disposal systems.

701.038. SEWAGE COMPLAINTS, INVESTIGATION BY DEPARTMENT, WHEN — RIGHT TO INSPECT ADJOINING PROPERTY, PROCEDURE REQUIRING NOTICE, EXCEPTION. — 1. The department of health and senior services or any of its agents may not investigate a sewage complaint except when necessary as part of a communicable disease investigation unless the complaint is received from an aggrieved party **or[,]** an adjacent landowner **[**, or any two residents of the county**]**. The department of health and senior services or any of its agents may enter any adjoining property if necessary when they are making an inspection pursuant to this section. The necessity for entering such adjoining property shall be stated in writing and the owner of such property shall be notified before the department or any of its agents may enter, except that, if an imminent health hazard exists, such notification shall be attempted but is not required.

2. If the department or its agents make an investigation pursuant to a complaint as described in subsection 1 of this section and find that a nuisance does exist, the property owner shall comply with state and local standards when repairing or replacing the on-site sewage disposal system.

701.053. REGISTERED ON-SITE DISPOSAL SYSTEM CONTRACTOR, FORM, QUALIFICATIONS — REGISTRATION ISSUED BY COUNTY TO BE DEEMED STATE REGISTRATION. — 1. A person may not represent himself as a registered on-site sewage disposal system contractor in this state unless the person is registered by a county or the department. A county or the department shall issue registration to a contractor if the contractor completes an application form that is in compliance with sections 701.025 to 701.059 and the rules and regulations adopted thereunder. A registration issued by a county in compliance with sections 701.053 to 701.055 shall be considered a state registration and valid in all political subdivisions of the state.

2. To qualify for registration, a contractor must successfully complete the educational training program provided by the department**, or a county that offers on-site sewage disposal system contractor training that has been certified by the department and has an ordinance or regulation that mandates contractor training**.

[249.1152. RESOLUTION OR PETITION, CONTENTS — COUNTY ORDER OR ORDINANCE, CONTENTS — HEARING PROCEDURES — PROPERTY TAX LEVY, BALLOT FORM — BOARD OF TRUSTEES CREATED, MEMBERS, TERMS — AUTHORITY OF DISTRICT — DISSOLUTION OF A DISTRICT, PROCEDURES. — 1. Upon the adoption of a resolution by the governing body of any county of the third classification located within any watershed in this state, or upon the filing of a petition by the property owners residing within the portion of the watershed that is located within the county's boundaries, a watershed improvement district may be proposed as authorized in this section. The resolution or the petition shall contain the following information:

(1) The specific description of the watershed, which shall be identical to any United States geological survey designated watershed, and the proposed district within the county including a map illustrating the boundaries of both the watershed and the proposed district;

(2) The name of the proposed district;

(3) If the creation of the district is proposed by petition filed by property owners, the name and residence of each petitioner; and

(4) The purpose of the district.

2. Upon the adoption of a resolution proposing the creation of the district under this section, the governing body of the county shall, by order or ordinance, provide a hearing on the creation of the district. The order or ordinance providing a hearing on the creation of such a district shall contain the following information:

(1) A description of the boundaries of the proposed district; and

(2) The time and place of a hearing to be held to consider establishment of the proposed district.

3. Whenever a hearing is held as provided by this section, the governing body of the county approving the proposed district shall:

(1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing. The purpose of the district shall be published in the hearing notice;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Rule upon all protests, which determinations shall be final.

4. Following the hearing, if the governing body of any county located within the proposed district decides to establish the proposed district, the county shall adopt an order to that effect. If the governing body of any county located within the proposed district receives a petition signed by at least twenty percent of the property owners in the proposed district requesting establishment of the proposed district then the county shall adopt an order to that effect. An order adopted under this subsection shall contain the following:

(1) The description of the boundaries of the watershed, which shall be identical to any United States geological survey designated watershed, and the boundaries of the district within the county;

(2) A statement that a watershed improvement district has been established;

(3) The name of the district;

(4) A declaration that the district is a political subdivision of the state; and

(5) The purpose of the district.

5. A district established under this section may, at a general or primary election, submit to the qualified voters within the district boundaries a real property tax that shall not exceed five cents per one hundred dollars assessed valuation to fund the operation of the district. The ballot of submission shall be in substantially the following form:

Shall the ..... (name of district) impose a real property tax within the district at a rate of not more than ..... (insert amount) dollars per hundred dollars of assessed valuation to fund the operation of the district?

[ ] 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 in each county that is part of the district favor the proposal, then the real property tax shall become effective in the district on the first day of the year following the year of the election. If a majority of the votes cast in each county that is a part of the district oppose the proposal, then that county shall not impose the real property tax authorized in this section until after the county governing body has submitted another such real property tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a real property tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

6. The real property tax authorized by this section is in addition to all other real property taxes allowed by law.

7. Once the real property tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the tax. The tax shall not be abolished or terminated while the district has any financing or other obligations outstanding. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities.

8. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated under this section. The board shall consist of at least three but not more than ten individuals from the district. The board shall be appointed by the governing body of each county in the district. The membership of the board shall to the extent practicable be in proportion to the number of people living in the watershed in each county. Each county located within the district shall be represented on the board by at least one trustee. Of the initial trustees appointed from each county, a majority shall serve terms of one year, and the remainder shall serve terms of two years, as determined by lot. After the initial appointments of the trustees, the trustees shall be elected by the property owners within the district. Each trustee may be elected to no more than five consecutive two-year terms. Vacancies shall be filled by the board. Each trustee shall serve until a successor is elected and sworn. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership.

9. A watershed improvement district created under this section is authorized to own, install, operate, and maintain decentralized or individual on-site wastewater treatment plants. A watershed improvement district created under this section shall be a body corporate and a political subdivision of the state of Missouri, shall be capable of suing and being sued in contract in its corporate name, and shall be capable of holding such real and personal property necessary for corporate purposes. The district shall implement procedures to regulate the area within and consistent with the purpose of the district and to educate property owners about the requirements imposed by the district.

10. A watershed improvement district created under this section shall have the power to borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property within the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property within the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

11. The county commission of any county located within a watershed improvement district may authorize individual properties to be served by the district by adoption of a resolution or

upon the filing of a petition signed by at least twenty percent of the property owners of the proposed area. The resolution or petition shall describe generally the size and location of the proposed area.

12. In the event that any property within a watershed improvement district proposed under this section lies within or is serviced by any existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed improvement district formed under this section unless the existing sewer district agrees to refrain from providing service or to discontinue service to the property. No property shall become part of the watershed district until the owner of that property has paid in full all outstanding costs owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

13. No service shall be initiated to any property lying within the watershed improvement district created under this section unless the property owner elects to have the service provided by the district.

14. Any on-site wastewater treatment systems installed on any property that participates in the watershed improvement district formed under this section shall meet all applicable standards for such on-site wastewater treatment systems under sections 701.025 to 701.059, RSMo, and as required by rules or regulations promulgated by the appropriate state agencies.

15. Property owners participating in the watershed improvement district formed under this section shall be required as a condition of continued participation to have a maintenance plan approved by the watershed improvement district for the on-site wastewater treatment systems on their properties. Such property owners shall also execute a utilities easement to allow the district access to the system for maintenance purposes and inspections. The property owner shall provide satisfactory proof that periodic maintenance is performed on the sewage system. The level of satisfactory proof required and the frequency of periodic proof shall be determined by the board of trustees.

16. In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district.**]**

[249.1154. GROUNDWATER DEPLETION AREAS DESIGNATED — VOLUME MONITORING MAY BE REQUIRED. — The governing body of any county, by order or ordinance or upon the filing of a petition signed by at least twenty percent of the property owners in an area proposed for designation under this section, may designate groundwater depletion areas within a watershed improvement district created under section 249.1150 or 249.1152 and may require well volume monitoring.**]**

[640.635. WASTEWATER ANALYSIS, LICENSE REQUIRED, CRITERIA — RULEMAKING AUTHORITY — FEE, RATE. — Any person or laboratory performing an analysis of wastewater shall be licensed to perform the analysis by the department of natural resources. The department shall determine by rule or regulation the licensing criteria. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of

chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. The department may require the person or laboratory obtaining a license under this section to pay a fee to the department for licensure. The fee shall be set at a level not to exceed the cost and expense of administrating this section.**]**

Approved July 6, 2005

HB 618 [SCS HB 618]

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

Exempts members of the State Highway Patrol assigned to the Division of Drug and Crime Control from personnel caps

AN ACT to repeal sections 43.050 and 304.022, RSMo, and to enact in lieu thereof two new sections relating to law enforcement, with penalty provisions.

SECTION

A. Enacting clause.
43.050. Officers and other personnel, numbers authorized — exceptions — discrimination prohibited.
304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 43.050 and 304.022, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 43.050 and 304.022, to read as follows:

43.050. OFFICERS AND OTHER PERSONNEL, NUMBERS AUTHORIZED — EXCEPTIONS — DISCRIMINATION PROHIBITED. — 1. The superintendent may appoint not more than twenty-five captains and one director of radio, each of whom shall have the same qualifications as the superintendent, nor more than sixty lieutenants, and such additional force of sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not exceed nine hundred sixty-five officers and patrolmen and such numbers of radio personnel as **[**he**]** **the superintendent** deems necessary.

2. In case of a national emergency the superintendent may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. Members of the patrol hired in conjunction with any agreement with the Missouri gaming commission shall not be subject to the personnel cap referenced in subsection 1 of this section. If such agreement is subsequently terminated or modified to reduce the number of personnel used in such agreement, those members affected by such termination or modification shall not be subject to the personnel cap referenced in subsection 1 of this section for a period of three years.

4. Members of the patrol hired in conjunction with the community-oriented policing services federal grant **or members assigned to fulfill the duties established in sections 43.350 to 43.380** shall not be subject to the personnel cap referenced in subsection 1 of this section.

5. Applicants shall not be discriminated against because of race, creed, color, national origin or sex.

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

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

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

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

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

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol**, the Missouri capitol police,** or a state park ranger, those vehicles operated by enforcement personnel of the state highways and transportation commission, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

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

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

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

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

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

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

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

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

(2) The driver of an emergency vehicle may:

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

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

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

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

(3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this subsection shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

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

7. Violation of this section shall be deemed a class C misdemeanor.

Approved July 6, 2005

HB 630 [HCS HB 630]

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 not-for-profit corporation to apply for reinstatement if it had been forfeited after 1978 for failure to file an annual report

AN ACT to repeal sections 355.716 and 355.871, RSMo, and to enact in lieu thereof two new sections relating to not-for-profit corporations.

SECTION
A. Enacting clause.
355.716. Reinstatement after administrative dissolution or forfeiture.
355.871. Repeal of chapter 355, effects.

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

SECTION A. ENACTING CLAUSE. — Sections 355.716 and 355.871, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 355.716 and 355.871, to read as follows:

355.716. REINSTATEMENT AFTER ADMINISTRATIVE DISSOLUTION OR FORFEITURE. — 1. A corporation administratively dissolved under section 355.711 **or forfeited after 1978 for failure to file an annual report** may apply to the secretary of state for reinstatement. The application must:

(1) Recite the name of the corporation and the effective date of its administrative dissolution **or forfeiture**;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the corporation's name satisfies the requirements of section 355.146; and

(4) Contain a certificate from the director of revenue reciting that all taxes owed by the corporation have been paid if the corporation pays taxes.

2. If the secretary of state determines that the application contains the information required by subsection 1 of this section and that the information is correct, the secretary of state shall cancel the certificate of dissolution **or forfeiture** and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under section 355.176.

3. When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution **or forfeiture** and the corporation shall resume carrying on its activities as if the administrative dissolution **or forfeiture** had never occurred.

355.871. REPEAL OF CHAPTER 355, EFFECTS. — 1. The repeal of former chapter 355 does not affect:

(1) The operation of the statute or any action taken under it before its repeal;

(2) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under the statute before its repeal;

(3) Any violation of the statute or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal;

(4) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with the statute as if it had not been repealed; or

(5) Any meeting of members or directors or action by written consent noticed or any action taken before its repeal as a result of a meeting of members or directors or action by written consent.

2. Repeals and reenactments provided in this section shall not void or invalidate the provisions of section 355.716.

Approved July 6, 2005

HB 631 [HCS HB 631]

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

Authorizes the Governor to convey state property located in the City of Manchester, St. Louis County, to the Manchester United Methodist Church

AN ACT to authorize the conveyance of property owned by the state in St. Louis County to the Manchester United Methodist Church, with an emergency clause.

SECTION

1. Conveyance of state property in St. Louis County to the Manchester United Methodist Church as an exchange of property or a direct sale.
B. Emergency clause.

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

SECTION 1. CONVEYANCE OF STATE PROPERTY IN ST. LOUIS COUNTY TO THE MANCHESTER UNITED METHODIST CHURCH AS AN EXCHANGE OF PROPERTY OR A DIRECT SALE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Louis County to the Manchester United Methodist Church either in exchange for a similar parcel of land described in subsection 2 of this section or for a sales price to be determined

by the commissioner of administration. The property to be conveyed is more particularly described as follows:

A tract of land being part of Lot 2 of Krape's Subdivision located in the City of Manchester, Missouri at 201 Creve Coeur Avenue, also being located in Section 36, Township 45 North, Range 4 East, St. Louis County, Missouri and being more particularly described as follows:

Lot 2 of Krape's Subdivision, as per plat recorded in Plat Book 211 Page 78 of the St. Louis County Records, conveyed to the State of Missouri by deed recorded in Deed Book 8145 Page 667 of the St. Louis County Records, excluding therefrom, the following tract of land conveyed by the State of Missouri to Calvin and Karen Travers by deed recorded in Deed Book 10851 Page 311 of the St. Louis County Records:

The northern part of Lot 2 of Krape's subdivision described as follows: Beginning at an iron pipe at the NW corner of Lot 1 of said Krape's Subdivision as per the recorded plat of said subdivision as recorded in Plat Book 211 on page 78 of the St. Louis County Recorder of Deeds Office; thence north 88 degrees 20 minutes West a distance of 109.95 feet to the Northwest corner of lot 2, said corner also being the northwest corner of said subdivision; thence south 1 degree 01 minute west along the west line of said Lot 2 and subdivision a distance of 100.12 feet to an iron pipe; thence south 88 degrees 19 minutes 46 seconds east a distance of 168.98 feet to an iron pipe at the southwest corner of lot 1 of said subdivision; thence along the western line of lot 1, north 29 degrees 20 minutes 12 seconds west a distance of 116.81 feet to the iron pipe at the point of beginning. Said portion of lot 2 as surveyed contains 13,962 square feet more or less.

2. If the commissioner elects to receive property in exchange for the tract of land and building conveyed in subsection 1 of this section, the Manchester United Methodist Church shall build a new group home to specifications and design per agreement approved by the commissioner of administration on property owned by the church and convey the group home and property to the state. The property to be conveyed to the state is more particularly described as follows:

A tract of land being part of Lot 17 of the Subdivision of William Triplet's Estate located in the City of Manchester, Missouri at 232 Creve Coeur Avenue, also being located in Section 36, Township 45 North, Range 4 East, St. Louis County, Missouri and being more particularly described as follows:

Part of the tract of land conveyed to the Manchester United Methodist Church by deed recorded in Deed Book 15637 Page 2616 and more particularly described as follows:

Part of Lot 17 of the Subdivision of William Triplet's Estate, in Section 36, township 45 North, Range 4 East and described as follows:

Beginning at the Northeast corner of Wilcox Place, according to the plat thereof recorded in Plat Book 55 Page 19; thence North 0 degrees 43 minutes East 90.87 feet to a point; thence North 88 degrees 20 minutes West, 305.77 feet to a point on the arc of a curve, having a radius of 30 feet; thence Southwestwardly along said arc of a curve, 26.13 feet to a point; thence South 3 degrees 23 minutes West, 67.94 feet to a point in the North line of Wilcox Place, thence South 88 degrees 20 minutes East along the North line of Wilcox Place, 320.00 feet to the point of beginning according to the Survey made by Elbring Surveying Company during June, 1955, excluding therefrom the following tract of land:

Beginning at the Northeast corner of Wilcox Place; thence North 0 degrees 43 minutes East 90.87 feet to a point, thence North 88 degrees 20 minutes West 116.87 feet to a point; thence South 0 degrees 43 minutes West 90.87 feet to a point; thence South 88 degrees 20 minutes East 116.87 feet to the point of beginning.

The Manchester United Methodist Church shall have a right of first refusal to purchase the land conveyed to the state at such time in the future as the general assembly authorizes the right to sell the property.

3. As alternative consideration, the Manchester United Methodist Church may build a new group home to specifications and design per agreement approved by the commissioner of administration on the property owned by the church and identified in subsection 2 of this section, and lease the property to the state of Missouri for one dollar per year for a minimum of twenty years or until such time as the state of Missouri ceases to use the property for a group home.

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 B. EMERGENCY CLAUSE. — Because of the need to expedite a building project for the department of mental health, 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 13, 2005

HB 638 [SCS HB 638]

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

Repeals the requirement that the chief executive of an urban public library district be a duly qualified graduate librarian

AN ACT to repeal section 182.707, RSMo, and to enact in lieu thereof one new section relating to qualifications of the chief executive officer of the urban public library district.

SECTION

A. Enacting clause.

182.707. Board of trustees, appointment, qualifications, terms, vacancies, expenses, officers how selected — meetings — majority vote of full board required when — librarian powers and duties — staff.

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

SECTION A. ENACTING CLAUSE. — Section 182.707, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 182.707, to read as follows:

182.707. BOARD OF TRUSTEES, APPOINTMENT, QUALIFICATIONS, TERMS, VACANCIES, EXPENSES, OFFICERS HOW SELECTED — MEETINGS — MAJORITY VOTE OF FULL BOARD REQUIRED WHEN — LIBRARIAN POWERS AND DUTIES — STAFF. — 1. An urban public library district created under the provisions of sections 182.701 to 182.723 shall be governed by a board of trustees which shall consist of nine members. The initial board of trustees shall be appointed by the board of directors of the nine director urban school district, no later than fifteen business days following an election approving creation of an urban public library district. The new board of trustees shall meet and organize within ten days of appointment, or as soon after as reasonably practicable. After the initial appointments, successor trustees shall be appointed by the mayors of the three cities in which the greatest portion of the geographic area of the new urban public library district is located. Seven trustees shall be appointed by the mayor of the city

in which the greatest percentage of the geographic area served is located. The mayor of each of the other two cities shall be entitled to appoint one member of the board of trustees. The mayor of the city comprising the third largest geographic area shall be authorized to appoint one board member two years following the initial appointment. The mayor of the city serving the second largest geographic area shall be authorized to appoint one member four years after the initial appointment.

2. Of the nine members initially appointed to the board of trustees pursuant to subsection 1 of this section, two shall serve for two years, three shall serve for three years and four shall serve for four years. At the time of the organizational meeting of the initial library board appointed by the board of education, the nine appointed members shall decide by drawing lots which shall serve for two, three or four years. After the initial members of the board of trustees have been appointed in the manner set forth above, members shall be appointed to serve terms of four years, except that a member appointed to fill a vacancy in a term of office shall be appointed to serve only the remainder of that term. Each member appointed shall serve until his successor in office is appointed and qualified.

3. Each member of the board of trustees shall be at least twenty-five years of age and shall be a resident of the urban public library district and shall have resided within the state of Missouri for at least one year next preceding his or her appointment.

4. Vacancies in the board of trustees occasioned by removals, resignations, or otherwise shall be reported to the mayor of the appropriate appointing city, and shall be filled in like manner as original appointment; except that, if the vacancy occurs during an unexpired term, the appointment shall be for only the unexpired portion of that term.

5. No trustee shall receive any fee, salary, gratuity or other compensation or remuneration for acting as such, except that the board of trustees may reimburse its members for actual and necessary expenses incurred in the performance of their duties.

6. The board of trustees shall have a president, secretary, and a treasurer and such other officers as the board may select. All officers of the board of trustees shall be selected by the board. All officers of the board of trustees shall serve at the pleasure of the board and shall not receive any salary, gratuity or other compensation or reimbursement for acting as such, except the treasurer, who may also serve as secretary.

7. The board of trustees shall provide for regularly scheduled meetings of the board to be held monthly. The board of trustees shall make and adopt bylaws, rules and regulations governing the proceedings of the board, including bylaws prescribing the duties of each officer of the board of trustees. No bylaws, rules or regulations shall be contrary to, or inconsistent with, any provision of law.

8. A majority of the full board of trustees shall constitute a quorum for the transaction of business. An act of the majority of the trustees present at a meeting at which a quorum is present shall be the act of the board of trustees, except as hereinafter provided. The affirmative vote of a majority of the full board of trustees shall be required to enter into any contract, employ or dismiss the chief administrative officer of the district, effect a merger or consolidation or approve a budget.

9. The board of trustees of an urban public library district shall adopt policies for the government of the urban public library district that will carry out the spirit and intent of sections 182.701 to 182.723, and the board of trustees shall employ a [duly qualified graduate librarian as the] chief executive [and] **as** administrative officer of the urban public library district charged with the duty of carrying out the policies adopted by the board of trustees. The [librarian] **chief executive** shall serve at the pleasure of the board of trustees. The [librarian] **chief executive** shall have the authority to employ professional library assistants and other employees to fill the positions that are created by the board of trustees. The assistants and employees may be dismissed by the [librarian] **chief executive**.

Approved June 22, 2005

HB 678 [CCS SCS HB 678]

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 corporation to specify that classes or series of its stock will be uncertificated shares

AN ACT to repeal sections 351.107, 351.180, 351.182, 351.295, and 409.2-202, RSMo, and to enact in lieu thereof five new sections relating to corporations.

SECTION

A. Enacting clause.
351.107. Restated articles of incorporation may be amended at time of restatement.
351.180. Power to issue shares — preferences — procedure — redemption of stock by corporation, requirements — amended certificate of designation for classes or series adversely affecting holders, majority vote of holders required.
351.182. Stock warrants, options — terms — consideration.
351.295. Stock certificate, form, contents, authorized signatures.
409.2-202. Exempt transactions.

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

SECTION A. ENACTING CLAUSE. — Sections 351.107, 351.180, 351.182, 351.295, and 409.2-202, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 351.107, 351.180, 351.182, 351.295, and 409.2-202, to read as follows:

351.107. RESTATED ARTICLES OF INCORPORATION MAY BE AMENDED AT TIME OF RESTATEMENT. — The articles of incorporation may be amended at the time of restatement of the articles of incorporation, in the following manner:

(1) The procedure required by this chapter for effecting an amendment to the articles of incorporation may be carried out concurrently with the procedure for restatement so that the proposed amendment and the restated articles may be presented to the same meetings of directors and shareholders;

(2) Such amendment and restatement, upon adoption by that percentage vote of shareholders required for that particular amendment, and on being set forth in a single certificate of amendment and restatement, in the manner required by this chapter, may then be filed in the office of the secretary of state **and shall not become effective** unless and until such amendment has become effective in the manner provided in this chapter.

351.180. POWER TO ISSUE SHARES — PREFERENCES — PROCEDURE — REDEMPTION OF STOCK BY CORPORATION, REQUIREMENTS — AMENDED CERTIFICATE OF DESIGNATION FOR CLASSES OR SERIES ADVERSELY AFFECTING HOLDERS, MAJORITY VOTE OF HOLDERS REQUIRED. — 1. Every corporation may issue one or more classes of stock or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the articles of incorporation or any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of its articles of incorporation. Any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of any such class or series of stock may be made dependent upon facts ascertainable outside the articles of incorporation or of any amendment thereto, or outside the resolution or

resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by its articles of incorporation, provided that the manner in which such facts shall operate upon the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of such class or series of stock is clearly and expressly set forth in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors. The power to increase or decrease or otherwise adjust the capital stock as provided in this chapter shall apply to all or any such classes of stock.

2. (1) Subject to the provisions of section 351.200, the stock of any class or series may be made subject to redemption by the corporation at its option or at the option of the holders of such stock or upon the happening of a specified event; provided, that at the time of such redemption the corporation shall have outstanding shares of at least one class or series of stock with full voting powers which shall not be subject to redemption. Notwithstanding the limitation stated in the foregoing provision:

(a) Any stock of a regulated investment company registered under the Investment Company Act of 1940, as amended, may be made subject to redemption by the corporation at its option or at the option of the holders of such stock;

(b) Any stock of a corporation which holds, directly or indirectly, a license, franchise, or contract from a governmental agency to conduct its business or is a member of a national securities exchange, which license, franchise, contract, or membership is conditioned upon some or all of the holders of its stock possessing the prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it;

(2) Any stock which may be redeemable under this section may be redeemed for cash, property or rights, including securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with such adjustments, as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.

3. The holders of preferred or special stock of any class or of any series thereof shall be entitled to receive dividends at such rates, on such conditions and at such times as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided, payable in preference to, or in such relation to, the dividends payable on any other class or classes or of any other series of stock, and cumulative or noncumulative as shall be so stated and expressed. When dividends upon the preferred and special stocks, if any, to the extent of the preference to which such stocks are entitled, have been paid or declared and set apart for payment, a dividend on the remaining class or classes or series of stock may then be paid out of the remaining assets of the corporation available for dividends as is provided elsewhere in this chapter.

4. The holders of the preferred or special stock of any class or of any series thereof are entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the corporation as is stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.

5. Any stock of any class or of any series thereof may be made convertible into, or exchangeable for, at the option of either the holder or the corporation or upon the happening of a specified event, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation, at such price or prices or at such rate or rates of exchange and with such adjustments as is stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.

6. If any corporation is authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face

or back of the certificate which the corporation issues to represent such class or series of stock **in the case of shares represented by a certificate**; but, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the corporation issues to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. **The corporation shall also furnish such information upon request to holders of uncertificated shares.**

7. When any corporation desires to issue any shares of stock of any class or of any series of any class of which the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, have not been set forth in the articles of incorporation or in any amendment thereto, but are provided for in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation or any amendment thereto, a certificate of designations setting forth a copy of such resolution or resolutions and the number of shares of stock of such class or series as to which the resolution or resolutions apply shall be executed by the president or any vice president and filed by the corporation with the secretary of state. Unless otherwise provided in any such resolution or resolutions, the number of shares of stock of any such class or series to which such resolution or resolutions apply may be increased, but not above the number of shares of the class authorized by the articles of incorporation with respect to which the powers, designations, preferences and rights have not been set forth, or decreased, but not below the number of shares thereof then outstanding, by a certificate likewise executed and filed setting forth a statement that a specified increase or decrease therein had been authorized and directed by a resolution or resolutions likewise adopted by the board of directors. In case the number of such shares shall be decreased, the number of shares so specified in the certificate shall resume their status which they had prior to the adoption of the resolution or resolutions creating such shares. When no shares of any such class or series are outstanding, either because none were issued or because no issued shares of any such class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors that none of the authorized shares of such class or series are outstanding, and that none will be issued subject to the certificate of designations previously filed with respect to such class or series, may be executed by the president or any vice president and filed by the corporation with the secretary of state and, when such certificate becomes effective, it shall have the effect of eliminating from the articles of incorporation all reference to such class or series of stock. When shares of stock of any class or of any series of any class of which the powers, designations, preferences, and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, have not been set forth in the articles of incorporation or in any amendment thereto, but are provided in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation or any amendment thereto, the board of directors may, by resolution or resolutions adopted by the board of directors, amend the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, of any such class or series by filing an amended certificate of designations setting forth a copy of such resolution or resolutions, which shall include the terms and conditions of such amendment, executed by the president or any vice president and filed by the corporation with the secretary of state. Provided, however, that if any shares of any such class or series shall be issued and outstanding at the time of such filing, such amendment, if it adversely affects the holders thereof, shall not become effective unless as to any such class or series, a majority of the holders thereof, or such greater vote as the articles of incorporation or any amendment thereto require, adopts such amendment, and the certificate of designations shall state that such approval has been obtained. When any certificate is filed under

this subsection, it shall have the effect of amending the articles of incorporation and shall become effective as provided in subsection 1 of section 351.105.

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**] are** approved by the board of directors**, including resolutions of such board**. 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**] any** 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.

351.295. STOCK CERTIFICATE, FORM, CONTENTS, AUTHORIZED SIGNATURES. — 1. **[**Except as otherwise provided in the articles of incorporation or bylaws,**]** The shares of a corporation shall be represented by certificates**, provided that the articles of incorporation or bylaws, or a resolution or resolutions of the board of directors of the corporation, may provide that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such provision of the articles of incorporation or bylaws or resolution of the board of directors shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Notwithstanding such a provision of the articles of incorporation or bylaws, or the adoption of such a resolution by the board of directors, every holder of stock represented by certificates shall be entitled to have a certificate** signed by the president or a vice president and by the secretary or an assistant secretary or the treasurer or an assistant treasurer of such corporation and sealed with the seal of the corporation. Any or all the signatures on the certificate may be a facsimile and the seal may be facsimile, engraved or printed. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, the certificate may nevertheless be issued by the corporation with the same effect as if the person were an officer, transfer agent or registrar at the date of issue. **Every holder of uncertificated shares is entitled to receive a statement of holdings as evidence of share ownership.**

2. Every certificate for shares without par value shall have plainly stated upon its face the number of shares which it represents, and no certificate shall express any par value for such shares or a rate of dividend to which such shares shall be entitled in terms of percentage of any par or other value.

409.2-202. EXEMPT TRANSACTIONS. — The following transactions are exempt from the requirements of sections 409.3-301 to 409.3-306 and 409.5-504:

(1) An isolated nonissuer transaction, whether effected by or through a broker-dealer or not;

(2) A nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this act, and a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least ninety days, if, at the date of the transaction:

(A) The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(B) The security is sold at a price reasonably related to its current market price;

(C) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution; and

(D) A nationally recognized securities manual or its electronic equivalent designated by rule adopted or order issued under this act or a record filed with the Securities and Exchange Commission that is publicly available contains:

(i) A description of the business and operations of the issuer;

(ii) The names of the issuer's executive officers and the names of the issuer's directors, if any;

(iii) An audited balance sheet of the issuer as of a date within eighteen months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and

(iv) An audited income statement for each of the issuer's two immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement; or

(E) The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934 or designated for trading on the National Association of Securities Dealers Automated Quotation System, unless the issuer of the security is a unit investment trust registered under the Investment Company Act of 1940; or the issuer of the security, including its predecessors, has been engaged in continuous business for at least three years; or the issuer of the security has total assets of at least two million dollars based on an audited balance sheet as of a date within eighteen months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had the audited balance sheet, a pro forma balance sheet for the combined organization;

(3) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System;

(4) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in an outstanding security if the guarantor of the security files reports with the Securities and Exchange Commission under the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d));

(5) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act in a security that:

(A) Is rated at the time of the transaction by a nationally recognized statistical rating organization in one of its four highest rating categories; or

(B) Has a fixed maturity or a fixed interest or dividend, if:

(i) A default has not occurred during the current fiscal year or within the three previous fiscal years or during the existence of the issuer and any predecessor if less than three fiscal years, in the payment of principal, interest, or dividends on the security; and

(ii) The issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous twelve months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this act effecting an unsolicited order or offer to purchase;

(7) A nonissuer transaction executed by a bona fide pledgee without the purpose of evading this act;

(8) A nonissuer transaction by a federal covered investment adviser with investments under management in excess of one hundred million dollars acting in the exercise of discretionary authority in a signed record for the account of others;

(9) A transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the commissioner after a hearing;

(10) A transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(11) A transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if:

(A) The note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

(B) A general solicitation or general advertisement of the transaction is not made; and

(C) A commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this act as a broker-dealer or as an agent;

(12) A transaction by an executor, commissioner of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(13) A sale or offer to sell to:

(A) An institutional investor;

(B) A federal covered investment adviser; or

(C) Any other person exempted by rule adopted or order issued under this act;

(14) A sale or an offer to sell securities of an issuer, if part of a single issue in which:

(A) Not more than twenty-five purchasers are present in this state during any twelve consecutive months, other than those designated in paragraph (13);

(B) A general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(C) A commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this act or an agent registered under this act for soliciting a prospective purchaser in this state; and

(D) The issuer reasonably believes that all the purchasers in this state, other than those designated in paragraph (13), are purchasing for investment;

(15) A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state;

(16) An offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if:

(A) A registration or offering statement or similar record as required under the Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

(B) A stop order of which the offeror is aware has not been issued against the offeror by the commissioner or the Securities and Exchange Commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

(17) An offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if:

(A) A registration statement has been filed under this act, but is not effective;

(B) A solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the commissioner under this act; and

(C) A stop order of which the offeror is aware has not been issued by the commissioner under this act and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

(18) A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties;

(19) A rescission offer, sale, or purchase under section 409.5-510;

(20) An offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this act;

(21) Employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the

issuer's parent for the participation of their employees including offers or sales of such securities to:

(A) Directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisors;

(B) Family members who acquire such securities from those persons through gifts or domestic relations orders;

(C) Former employees, directors, general partners, trustees, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were offered; **[**and**]**

(D) Insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than fifty percent of their annual income from those organizations; **and**

(E) Current employees;

(22) A transaction involving:

(A) A stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock;

(B) An act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(C) The solicitation of tenders of securities by an offeror in a tender offer in compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162); or

(23) A nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this act, if the issuer is a reporting issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order issued under this act; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than one hundred eighty days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this paragraph or by rule adopted or order issued under this act, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this paragraph, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with chapter 536, RSMo, the commissioner, by rule adopted or order issued under this act, may revoke the designation of a securities exchange under this paragraph, if the commissioner finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

Approved July 12, 2005

HB 681 [HB 681]

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

Renames the Office of Advocacy and Assistance for the Elderly to the Office of Advocacy and Assistance for Senior Citizens

AN ACT to repeal sections 660.620 and 660.625, RSMo, and to enact in lieu thereof two new sections relating to the office of advocacy and assistance for the elderly.

SECTION
A. Enacting clause.
660.620. Office of advocacy and assistance for senior citizens established in office of lieutenant governor, duties and procedure.
660.625. Advocate to maintain confidentiality, exception.

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

SECTION A. ENACTING CLAUSE. — Sections 660.620 and 660.625, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 660.620 and 660.625, to read as follows:

660.620. OFFICE OF ADVOCACY AND ASSISTANCE FOR SENIOR CITIZENS ESTABLISHED IN OFFICE OF LIEUTENANT GOVERNOR, DUTIES AND PROCEDURE. — 1. There is hereby established an "Office of Advocacy and Assistance for **[**the Elderly**] Senior Citizens**" within the office of lieutenant governor.

2. The **[**elderly**] senior citizen** advocate shall coordinate activities with the long-term care ombudsman program, as defined in section 660.600, on complaints made by or on behalf of **[**elderly persons**] senior citizens** residing in long-term care facilities.

3. The **[**elderly**] senior citizen** advocate shall conduct a suitable investigation into any actions complained of unless the **[**elderly**] senior citizen** advocate finds that the complaint pertains to a matter outside the scope of the authority of the **[**elderly**] senior citizen** advocate, the complainant has no substantive or procedural interest which is directly affected by the matter complained about, or the complaint is trivial, frivolous, vexatious or not made in good faith.

4. After completing his investigation of a complaint, the **[**elderly**] senior citizen** advocate shall inform the complainant, the agency, official or employee of action recommended by the **[**elderly**] senior citizen** advocate. The **[**elderly**] senior citizen** advocate shall make such reports and recommendations to the affected agencies, the governor and the general assembly as he deems necessary to further the purposes of sections 660.620 and 660.625.

5. The **[**elderly**] senior citizen** advocate shall, in conjunction with the division of **[**aging**] senior services**, act as a clearing house for information pertaining to and of interest to **[**the elderly**] senior citizens** and shall disseminate such information as is necessary to inform **[**elderly persons**] senior citizens** of their rights and of governmental and nongovernmental services available to them.

660.625. ADVOCATE TO MAINTAIN CONFIDENTIALITY, EXCEPTION. — The **[**elderly**] senior citizen** advocate shall maintain confidentiality with respect to all matters, including the identities of the complainants or witnesses coming before **[**him**] the senior citizen advocate** unless the complainant consents to the use of his **or her** name in the course of the investigation.

Approved July 6, 2005

HB 685 [SCS HB 685]

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

Authorizes the Board of Governors of Southwest Missouri State University to convey property located in Howell County in West Plains and property located in Greene County in Springfield

AN ACT to authorize the board of governors of Southwest Missouri State University to convey property in Greene and Howell Counties, with an emergency clause.

SECTION
1. Southwest Missouri State University to convey certain property in West Plains, Howell County.
2. Southwest Missouri State University to convey property along Fairway Avenue in Springfield.
A. Emergency clause.

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

SECTION 1. SOUTHWEST MISSOURI STATE UNIVERSITY TO CONVEY CERTAIN PROPERTY IN WEST PLAINS, HOWELL COUNTY. — 1. The board of governors of Southwest Missouri State University is hereby authorized to convey by warranty deed or other appropriate instrument its right, title, and interest in the following property. The property to be conveyed is more particularly described as follows:

Lot 4 in Block 10 in the Original Town, now City, of West Plains, Howell County, Missouri, subject to easements of record.

Street address: 120 Langston Street, West Plains, Howell County, Missouri.

2. Consideration for the conveyance shall be as negotiated by the parties.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. SOUTHWEST MISSOURI STATE UNIVERSITY TO CONVEY PROPERTY ALONG FAIRWAY AVENUE IN SPRINGFIELD. — 1. The board of governors of Southwest Missouri State University is hereby authorized to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state along Fairway Avenue in Springfield, Missouri, subject to easements and restrictions of record. The property to be conveyed is more particularly described as follows:

Beginning 225 feet east and 700 feet south of the southeast corner of Bennett and Delaware Streets, thence east 225 feet, thence south 150 feet, thence west 225 feet, thence north 150 feet to a pont of beginning.

Street address: 1515 South Fairway Avenue, Springfield, Greene County, Missouri.

2. Consideration for the conveyance shall be as negotiated by the parties.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because of the need to convey this real estate and receive the proceeds therefrom as contained in this act, sections 1 and 2 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 1 and 2 of this act shall be in full force and effect upon its passage and approval.

Approved June 22, 2005

HB 688 [SCS HB 688]

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 laws regarding the continuance of a judicial proceeding when an attorney is a member of the General Assembly

AN ACT to repeal section 510.120, RSMo, and to enact in lieu thereof one new section relating to judicial procedures, with penalty provisions.

SECTION
A. Enacting clause.
510.120. Automatic stay of all administrative and court procedures for members of the general assembly, when — continuance when counsel or party is a member of general assembly.

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

SECTION A. ENACTING CLAUSE. — Section 510.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 510.120, to read as follows:

510.120. AUTOMATIC STAY OF ALL ADMINISTRATIVE AND COURT PROCEDURES FOR MEMBERS OF THE GENERAL ASSEMBLY, WHEN — CONTINUANCE WHEN COUNSEL OR PARTY IS A MEMBER OF GENERAL ASSEMBLY. — 1. During the period beginning January 1 and ending June 1 of each year, or whenever the general assembly is in session, there shall be an automatic stay of all administrative and court proceedings in which any member of the general assembly has filed a written notice with the court or administrative hearing officer and with all parties to the proceeding that the member is:

(1) A necessary witness;

(2) A party to the action; or

(3) The initial attorney for any party or has filed an entry of appearance as an attorney for any party more than forty-five days prior to the filing of the written notice under this subsection.

2. The stay created by this section shall apply to all trials, motions, hearings, discovery responses, depositions, responses to motions, docket calls, and any other proceedings before any trial court or administrative tribunal, including municipal courts. The stay shall also apply to any order requiring the member to serve as a juror whenever the general assembly is in session.

3. The stay created by this section shall not apply:

(1) If the member waives the protections of this stay in the form of a written memorandum filed with the trial court or administrative tribunal;

(2) To any proceedings under chapter 288, RSMo;

(3) To any proceedings involving a request for injunctive relief; or

(4) To any proceeding in which the member is charged with a felony or a class A misdemeanor.

4. The court of appeals shall have original jurisdiction over any application for termination or modification of the stay.

5. In all civil cases or administrative proceedings or in criminal cases pending in this state at any time when the general assembly is in **[**regular session,**]** veto session, special session, or holding out-of-session committee hearings, it shall be a sufficient cause for **[**a**] such** continuance if it shall appear to the court, by **[**affidavit**] written notice**, that any party applying for such continuance, or any attorney, solicitor or counsel of such party is a member of either house of the general assembly, and in actual attendance on the out-of-session committee hearings, **[**regular session,**]** special session, or veto session of the same, and that the attendance of such party, attorney, solicitor or counsel is necessary to a fair and proper trial or other proceeding in such suit; and on the filing of such **[**affidavit**] notice** the court shall continue such suit and any and all motions or other proceedings therein, of every kind and nature, including the taking of depositions and discovery responses, and thereupon no trial or other proceedings of any kind or nature shall be had therein until the adjournment or recess for **[**twenty**] three** days or more of the **[**regular session,**]** special session**[**,**]** or veto session of the general assembly, nor for **[**ten days**] one day** before or after or the day of any out-of-session committee hearings. Such **[**affidavit**] notice** shall be sufficient, if made **[**at any time during**] within two days of** the out-of-session committee hearings, **[**regular session,**]** special session, or veto session of the general assembly, showing that at the time of making the same such party, attorney, solicitor or counsel is

scheduled to be in actual attendance upon such out-of-session committee hearings, **[**regular session,**]** special session, or veto session of the general assembly.

Approved July 12, 2005

HB 700 [HB 700]

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 laws regarding endangerment of individuals at a correctional facility and authorizes the Board of Probation and Parole to charge offenders under their supervision a monthly fee

AN ACT to repeal sections 217.690 and 565.092, RSMo, and to enact in lieu thereof three new sections relating to the department of corrections, with penalty provisions.

SECTION

A. Enacting clause.
217.690. Board may order release or parole, when — personal hearing — fee — standards — rules — minimum term for eligibility for parole, how calculated — first degree murder, eligibility for hearing — hearing procedure — notice — education requirements, exceptions — rulemaking authority.
565.085. Crime of endangering a corrections employee — definitions — penalty.
565.092. Aggravated harassment of an employee — penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 217.690 and 565.092, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 217.690, 565.085, and 565.092, to read as follows:

217.690. BOARD MAY ORDER RELEASE OR PAROLE, WHEN — PERSONAL HEARING — FEE — STANDARDS — RULES — MINIMUM TERM FOR ELIGIBILITY FOR PAROLE, HOW CALCULATED — FIRST DEGREE MURDER, ELIGIBILITY FOR HEARING — HEARING PROCEDURE — NOTICE — EDUCATION REQUIREMENTS, EXCEPTIONS — RULEMAKING AUTHORITY. — 1. When in its opinion there is reasonable probability that an offender of a correctional center can be released without detriment to the community or to himself, the board may in its discretion release or parole such person except as otherwise prohibited by law. All paroles shall issue upon order of the board, duly adopted.

2. Before ordering the parole of any offender, the board shall have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the board.

3. **The board has discretionary authority to require the payment of a fee, not to exceed sixty dollars per month, from every offender placed under board supervision on probation, parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful nonpayment of fees, and to contract with a private entity for fee collections services. All fees collected shall be deposited in the inmate fund established in section 217.430. Fees collected may be used to pay the costs of contracted collections services. The fees collected may otherwise be used to provide community corrections and**

intervention services for offenders. Such services include substance abuse assessment and treatment, mental health assessment and treatment, electronic monitoring services, residential facilities services, employment placement services, and other offender community corrections or intervention services designated by the board to assist offenders to successfully complete probation, parole, or conditional release. The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to sanctioning offenders and with respect to establishing, waiving, collecting, and using fees.

4. The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall recite the conditions of such parole.

[4.**] 5.** When considering parole for an offender with consecutive sentences, the minimum term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility for each of the consecutive sentences, except the minimum term for parole eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

[5.**] 6.** Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three years from the month of the parole denial; however, this subsection shall not prevent a release pursuant to subsection 4 of section 558.011, RSMo.

[6.**] 7.** Parole hearings shall, at a minimum, contain the following procedures:

(1) The victim or person representing the victim who attends a hearing may be accompanied by one other person;

(2) The victim or person representing the victim who attends a hearing shall have the option of giving testimony in the presence of the inmate or to the hearing panel without the inmate being present;

(3) The victim or person representing the victim may call or write the parole board rather than attend the hearing;

(4) The victim or person representing the victim may have a personal meeting with a board member at the board's central office;

(5) The judge, prosecuting attorney or circuit attorney and a representative of the local law enforcement agency investigating the crime shall be allowed to attend the hearing or provide information to the hearing panel in regard to the parole consideration; and

(6) The board shall evaluate information listed in the juvenile sex offender registry pursuant to section 211.425, RSMo, provided the offender is between the ages of seventeen and twenty-one, as it impacts the safety of the community.

[7.**] 8.** The board shall notify any person of the results of a parole eligibility hearing if the person indicates to the board a desire to be notified.

[8.**] 9.** The board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

[9.**] 10.** Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

[10.**] 11.** Beginning January 1, 2001, the board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender, while committed to the custody of the department, has made an honest good-faith effort to obtain a high school diploma or its equivalent; provided that the director may waive this requirement by certifying in writing to the board that the offender has actively participated in mandatory education programs or is academically unable to obtain a high school diploma or its equivalent.

12. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if

it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

565.085. CRIME OF ENDANGERING A CORRECTIONS EMPLOYEE — DEFINITIONS — PENALTY. — 1. An offender or prisoner commits the crime of endangering a corrections employee, a visitor to a correctional facility, or another offender or prisoner if he or she attempts to cause or knowingly causes such person to come into contact with blood, seminal fluid, urine, feces, or saliva.

2. For the purposes of this section, the following terms mean:

(1) "Corrections employee", a person who is an employee, or contracted employee of a subcontractor, of a department or agency responsible for operating a jail, prison, correctional facility, or sexual offender treatment center or a person who is assigned to work in a jail, prison, correctional facility, or sexual offender treatment center;

(2) "Offender", a person in the custody of the department of corrections;

(3) "Prisoner", a person confined in a county or city jail.

3. Endangering a corrections employee, a visitor to a correctional facility, or another offender or prisoner is a class D felony unless the substance is unidentified in which case it is a class A misdemeanor. If an offender or prisoner is knowingly infected with the human immunodeficiency virus (HIV), hepatitis B or hepatitis C and exposes another person HIV or hepatitis B or hepatitis C by committing the crime of endangering a corrections employee, a visitor to a correctional facility, or another offender or prisoner, it is a class C felony.

565.092. AGGRAVATED HARASSMENT OF AN EMPLOYEE — PENALTY. — 1. **[**An inmate,**]** **A** patient or respondent is guilty of aggravated harassment of an employee when, with intent to harass, annoy, threaten or alarm a person in a facility whom the person knows or reasonably should know to be an employee of such facility **[**or of the department of corrections**]** or the department of mental health or to be an employee of any law enforcement agency, the person causes or attempts to cause such employee to come into contact with blood, seminal fluid, urine or feces, by throwing, tossing or expelling such fluid or material.

2. For the purposes of this section, **[**"inmate" means an offender, as defined in section 217.010, RSMo, or any person incarcerated in a local detention facility. For the purposes of this section,**]** "patient" means any person who is a patient in a facility operated by the department of mental health. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the division of youth services. For purposes of this section, "facility" means a **[**correctional facility or local correctional facility,**]** hospital operated by the department of mental health or a secure facility operated by the division of youth services.

3. **[**No person convicted and serving a sentence for the crime of aggravated harassment of an employee pursuant to the provisions of this section shall be eligible to participate in a work release program pursuant to section 217.435, RSMo.

4.**]** Any person who violates the provisions of this section is guilty of a class A misdemeanor.

Approved June 21, 2005

HB 707 [SCS HB 707]

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 laws regarding banks and financial institutions

AN ACT to repeal sections 361.060, 361.070, 361.080, 361.262, 361.365, 362.042, 362.107, 362.170, 362.210, 362.213, 362.215, 362.217, 362.225, 362.300, 362.305, 362.310, 362.315, 362.520, and 362.600, RSMo, and to enact in lieu thereof thirteen new sections relating to banking, with penalty provisions.

SECTION

A. Enacting clause.
361.060. Deputy director — appointment — qualifications — duties.
361.070. Director and employees — oath — bond — prohibited acts — powers of director.
361.080. Confidential information — exceptions — penalty for disclosure.
361.262. Removal or suspension from office, grounds — written notice of intention, effective when — served on whom.
361.365. Director may appoint the Federal Deposit Insurance Corporation as liquidating agent — effect of.
362.042. Restated articles of incorporation may be amended at time of restatement, manner.
362.107. Branch banking allowed, requirements — director of finance to approve, appeals.
362.170. Unimpaired capital, defined — restrictions on loans, and total liability to any one person.
362.225. Reserve depositaries.
362.310. Surplus fund — composition — purposes.
362.315. Net income or loss for dividend period to be determined — income to be credited to surplus fund — undivided profits available for dividends.
362.520. Banks may close, when — bank holiday, effect of.
362.600. Reciprocal corporate fiduciary powers — certificates of reciprocity.
362.210. Reserves against demand deposits.
362.213. Reserves against demand deposits, applicable, when.
362.215. Reserves against time deposits.
362.217. Reserves, federal reserve member banks.
362.300. Calculation of gross earnings for dividend period.
362.305. Calculation of net earnings for dividend period.

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

SECTION A. ENACTING CLAUSE. — Sections 361.060, 361.070, 361.080, 361.262, 361.365, 362.042, 362.107, 362.170, 362.210, 362.213, 362.215, 362.217, 362.225, 362.300, 362.305, 362.310, 362.315, 362.520, and 362.600, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 361.060, 361.070, 361.080, 361.262, 361.365, 362.042, 362.107, 362.170, 362.225, 362.310, 362.315, 362.520, and 362.600, to read as follows:

361.060. DEPUTY DIRECTOR — APPOINTMENT — QUALIFICATIONS — DUTIES. — 1. The director of finance, with the approval of the governor, shall appoint a deputy director of finance and such examiners, assistant examiners and other assistants as, subject to the approval of the governor, he shall deem necessary to properly discharge the duties of the division of finance.

2. The deputy director shall possess the qualifications required for the director of finance. **[**Appointments of examiners and assistant examiners shall be so made that, as near as may be, one-half of their number respectively shall be members of the political party polling the highest number of votes for governor at the last preceding general state election, and the remaining one-half shall be members of the political party polling the next highest number of votes for governor at the last preceding state election.**]**

3. All employees of the division of finance shall perform such duties as shall be required of them by the director of finance, shall devote all of their time to their official duties, and shall hold their offices during and at the pleasure of the director of finance.

361.070. DIRECTOR AND EMPLOYEES — OATH — BOND — PROHIBITED ACTS — POWERS OF DIRECTOR. — 1. The director of finance**[**, deputy director, other assistants and examiners, and all special agents and other employees shall each**] and all employees of the division of finance, which term shall, for purposes of this section and section 361.080, include special agents, shall**, before entering upon the discharge of **[**his**] their** duties, take **[**and subscribe**]** the oath of office **[**as**]** prescribed by the constitution, and, in addition, **take an oath** that **[**he**] they** will not reveal the conditions or affairs of any **[**bank, banker or trust company in this state or of any credit union or small loan business**] financial institution** or any facts pertaining to the same, that may come to **[**his**] their** knowledge by virtue of **[**his**] their** official **[**position**] positions**, unless required by law **[**so**]** to do **so** in the discharge of the duties of **[**his said**] their [**office**] offices** or **[**as a witness**] when testifying** in any **court** proceeding **[**in a court of justice**]**. **For purposes of this section and section 361.080, "financial institution" shall mean any entity subject to chartering, licensing, or regulation by the division of finance.**

2. The director of finance**[**, deputy, assistants and examiners**] and all employees of the division of finance** shall further execute to the state of Missouri good and sufficient bonds with corporate surety, to be approved by the governor and attorney general, conditioned that they will faithfully and impartially discharge the duties of their offices, and pay over to the persons entitled by law to receive it, all **[**moneys**] money** coming into their hands by virtue of their offices**[**; and any special agent or other employee shall give a bond, approved as aforesaid, as may be required**]**. The principal amount of bond applicable to each employee shall be determined by the state banking board. The bond, after approval by the governor and attorney general, **[**as above provided,**]** shall be filed with the secretary of state for safekeeping. The **bond** premiums **[**on the bond**]**, not to exceed one percent on the amount thereof, shall be paid out of the state treasury in the same manner as other expenses of the division.

3. **[**No employee**] Neither the director of finance nor any employees** of the division **of finance** who **[**participates**] participate** in the examination of any bank or trust company, or who may be called upon to make any official decision or determination affecting the operation of any bank or trust company, other than the **[**two**]** banker members of the state banking board, shall be an officer, director, attorney, owner, or holder of stock in any bank or trust company or any bank holding company as that term is defined in section 362.910, RSMo, **[**or**] nor shall they** receive**,** directly or indirectly**,** any payment or gratuity from any such organization, **[**or**] nor** engage in the negotiation of loans for others with any state bank or trust company, **[**or**] nor** be indebted to any state bank or trust company.

4. The director of finance, in connection with any examination or investigation of any person, company, or event, shall have the authority to compel the production of documents, in whatever form they may exist, and shall have the authority to compel the attendance of and administer oaths to any person having knowledge of any issue involved with the examination or investigation. The director may seek judicial enforcement of an administrative subpoena by application to the appropriate court. An administrative subpoena shall be subject to the same defenses or subject to a protective order or conditions as provided and deemed appropriate by the court in accordance with the Missouri Supreme Court Rules.

361.080. CONFIDENTIAL INFORMATION — EXCEPTIONS — PENALTY FOR DISCLOSURE. — 1. **[**To ensure the integrity of the bank examination process, the director of finance, his deputies, clerks, stenographers, each examiner and every employee shall be bound, under oath, to keep secret all facts and information obtained in the course of all examinations, except so far as the public duty of such officer requires him to report upon or take special action regarding the

affairs of any bank, trust company or small loan business, and except when he is called as a witness in any proceeding in a court of justice relating to such financial institution's safety and soundness or in any criminal proceeding.

2. In all other circumstances, facts and information obtained by the division of finance in the course of examinations or investigations of a bank or trust company shall be held in confidence and not disclosed absent a court's finding of compelling reasons for disclosure. Such finding shall demonstrate that the need for the information sought outweighs the public interest in free and open communications during the bank examination process. In no event shall a bank, trust company, or any director, officer, employee, or agent thereof be held liable for libel, slander or defamation of character for any good faith communications by such bank, trust company or any director, officer, employee, or agent thereof to the director of finance or his deputies, examiners, or employees. Provided, however, that nothing in this section shall prohibit the disclosure of examination or investigation reports and work papers to a bank or trust company when a dispute arises concerning the examination or investigation of such bank or trust company.

3. If any director of finance, deputy, clerk, stenographer or examiner shall disclose the name of any debtor of any bank, trust company or small loan business, or anything relative to the private accounts, affairs or transactions of the bank, trust company or small loan business, or shall disclose any facts obtained in the course of his or their examination of any bank, trust company or small loan business, except as herein provided, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a forfeiture of his office and the payment of a fine of not more than one thousand dollars; provided, however, that the director of finance, his deputies, and each examiner may exchange information with the Federal Reserve Board, the federal reserve banks, or with examiners duly appointed by the Federal Reserve Board, or by the federal reserve banks, the Comptroller of Currency of the United States, or with examiners duly appointed by him, the Federal Deposit Insurance Corporation or the examiners duly appointed by it, or any other agency which regulates financial institutions under the laws of the federal government or of this state or any other state when the director of finance determines that the sharing of such information is necessary for the proper performance of the bank examination, supervisory or regulatory duties of such agencies and examiners, that such information will receive protection from disclosure comparable to that accorded by section 361.070 and this section, and such agencies and examiners routinely share such information with the division of finance; and provided, further, that reports shall be made of the condition of the affairs of a bank or trust company ascertained from the examination to the officers and directors of the bank or trust company examined, and to the finance director, and to any holding company owning control of such bank or trust company if authorized by the board of directors of the bank or trust company.**] To ensure the integrity of the examination process, the director of finance and all employees of the division of finance shall be bound under oath to keep secret all facts and information obtained in the course of all examinations and investigations except:**

(1) To the extent that the public duty of the director requires the director to report information to another government official or agency or take administrative or judicial enforcement action regarding the affairs of a financial institution;

(2) When called as a witness in a court proceeding relating to such financial institution's safety and soundness or in any criminal proceeding;

(3) When reporting on the condition of the financial institution to the officers and directors of the financial institution or to a holding company which owns the financial institution;

(4) When reporting findings to a complainant, provided the disclosure is limited to such complainant's account information;

(5) When exchanging information with any agency which regulates financial institutions under federal law or the laws of any state when the director of finance determines that the sharing of information is necessary for the proper performance by the

director of finance and the other agencies, that such information will remain confidential as though subject to section 361.070 and this section and that said agencies routinely share information with the division of finance;

(6) When authorized by the financial institution's board of directors to provide the information to anyone else; or

(7) When disclosure is necessary or required, the director may set conditions and limitations, including an agreement of confidentiality or a judicial or administrative protective order.

2. In all other circumstances, facts, and information obtained by the director of finance and the employees of the division of finance through examinations or investigations shall be held in confidence absent a court's finding of compelling reasons for disclosure. Such finding shall demonstrate that the need for the information sought outweighs the public interest in free and open communications during the examination or investigation process. To assure a meaningful hearing, any financial institution that is not already a party to the judicial proceeding and whose information is the subject of a records request or subpoena shall be joined or notified and permitted to intervene in the hearing and to participate regarding the production request or subpoena. In no event shall a financial institution, or any officer, director, or employee thereof, be charged with libel, slander, or defamation for any good faith communications with the director of finance or any employees of the division of finance.

3. If the director or any employees of the division of finance disclose the name of any debtor of any financial institution or disclose any facts obtained in the course of any examination or investigation of any financial institution, except as herein provided, the disclosing party shall be deemed guilty of a misdemeanor and upon conviction shall be subject to forfeiture of office and the payment of a fine not to exceed one thousand dollars.

361.262. REMOVAL OR SUSPENSION FROM OFFICE, GROUNDS — WRITTEN NOTICE OF INTENTION, EFFECTIVE WHEN — SERVED ON WHOM. — 1. Whenever it shall appear to the director, from any examination made by him or his examiners, that any director, officer, or any other person participating in the conduct of the affairs of a corporation subject to this chapter has committed any violation of law or regulation or of a cease and desist order, or has violated any condition imposed in writing by the director in connection with the grant of any application or other request by such corporation or any written agreement between such corporation and the director, or has engaged or participated in any unsafe or unsound practice in connection with the corporation, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty to the corporation, and the director determines that the corporation has suffered or will probably suffer financial loss or other damage or that the interests of its depositors could be prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer or other person has received financial gain by reason of such violation or practice or breach of fiduciary duty, and such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer or other person, or one which demonstrates a willful or continuing disregard for the safety or soundness of the corporation, the director may serve upon such director, officer, or other person, a written notice of his intention to remove him from office.

2. When it shall appear to the director from any examination made by him or his examiners that any director or officer of a corporation subject to this chapter, by conduct or practice with respect to another such corporation or any business institution which resulted in financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to continue as a director or officer and whenever it shall appear to the director that any other person participating in the conduct of the affairs of a corporation subject to this chapter, by conduct or practice with respect to such corporation or other corporation or other business institution which resulted in financial

loss or other damage, has evidenced either his personal dishonesty or willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such corporation, the director may serve upon such director, officer, or other person a written notice of intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the corporation **or from any other banking, savings, or trust institution supervised by the director**.

3. Whenever it shall appear to the director to be necessary for the protection of any corporation or its depositors, he may, by written notice to such effect served upon any director, officer, or other person referred to in subsection 1 or 2 of this section, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the corporation. Such suspension or prohibition shall become effective upon service of such notice and shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsection 1 or 2 of this section and until such time as the director shall dismiss the charges specified in such notice or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the corporation of which he is a director or officer or in the conduct of whose affairs he has participated.

4. Except as provided in subsection 5 of this section, any person who, pursuant to an order issued under this section, has been removed or suspended from office in a corporation or prohibited from participating in the conduct of the affairs of a corporation may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in, the conduct of the affairs of any other corporation subject to the provisions of this chapter.

5. If, on or after the date an order is issued under this section which removes or suspends from office any person or prohibits such person from participating in the conduct of the affairs of a corporation, such party receives the written consent of the director, subsection 4 of this section shall, to the extent of such consent, cease to apply to such person with respect to the corporation described in the written consent and the director shall publicly disclose such consent. Any violation of subsection 4 of this section by any person who is subject to an order described in such subsection shall be treated as a violation of the order.

361.365. DIRECTOR MAY APPOINT THE FEDERAL DEPOSIT INSURANCE CORPORATION AS LIQUIDATING AGENT — EFFECT OF. — The director may appoint the Federal Deposit Insurance Corporation as liquidating agent of any banking corporation insured thereby of which he has duly taken possession under any provision of this chapter, and the Federal Deposit Insurance Corporation as liquidating agent shall thereupon be vested with both legal and equitable title to all the assets, rights, claims and other real and personal property of the closed bank. The Federal Deposit Insurance Corporation as liquidating agent shall have power to perform all acts of the director in the liquidation of the closed bank. **[**The director shall petition the circuit court in the judicial district in which the principal office of such insured banking corporation is located for an order confirming the appointment of the Federal Deposit Insurance Corporation as liquidating agent of such bank.**]**

362.042. RESTATED ARTICLES OF INCORPORATION MAY BE AMENDED AT TIME OF RESTATEMENT, MANNER. — 1. Any bank or trust company may at any time restate its articles of agreement as theretofore amended, in the following manner:

(1) The directors may adopt a resolution setting forth the proposed restated articles of agreement and directing that they be submitted to a vote at a meeting of stockholders, which may be either an annual or a special meeting, except that the proposed restated articles of agreement need not be adopted by the directors and may be submitted directly to an annual or special meeting of stockholders.

(2) Notice shall be given as provided in section 362.044.

(3) At the meeting a vote of the stockholders entitled to vote thereon shall be taken on the proposed restated articles. The proposed restated articles shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote.

(4) Upon such approval, restated articles of agreement shall be executed in duplicate by the bank or trust company by its president or a vice president and by its cashier or secretary or an assistant cashier or secretary, and verified by one of the officers signing the articles. The restated articles shall contain a statement that the restated articles correctly set forth without change the corresponding provisions of the articles of agreement as heretofore amended, and that the restated articles of agreement supersede the original articles of agreement and all amendments thereto.

(5) Duplicate originals of the restated articles of agreement shall be delivered to the director of finance. If the director finds that the restated articles conform to law, and that all required fees have been paid, he or she shall file the same, and one of such copies shall be retained by the director in the public records of the division of finance.

(6) The director thereupon shall issue a restated certificate of incorporation setting forth the name of the bank or trust company, the amount of its capital subscribed and paid up in full, the period of its existence, and the address and location in the city or town at which the corporation is authorized to conduct its business. A certified copy of the restated articles shall be attached to the restated certificate of incorporation and delivered to the bank or trust company.

(7) Upon the issuance of the restated certificate of incorporation by the director of finance, the restated articles shall supersede the original articles of agreement and all amendments thereto.

2. The articles of incorporation may be amended at the time of restatement of the articles of incorporation in the following manner:

(1) The procedure required by this chapter for effecting an amendment to the articles of incorporation may be carried out concurrently with the procedure for restatement so that the proposed amendment and the restated articles may be presented to the same meetings of directors and shareholders;

(2) Such amendment, upon adoption by that percentage vote of shareholders required for that particular amendment, and on being set forth in the certificate of amendment required by this chapter, may then be incorporated into such restated articles of incorporation;

(3) Duplicate originals of the amended and restated articles of agreement shall be delivered to the director of finance. If the director finds that the amended and restated articles conform to law, and that all required fees have been paid, he or she shall file the same, and one of such copies shall be retained by the director in the public records of the division of finance.

(4) The director thereupon shall issue a restated certificate of incorporation setting forth the name of the bank or trust company, the amount of its capital subscribed and paid up in full, the period of its existence, and the address and location at which the corporation is authorized to conduct its business. A certified copy of the amended and restated articles shall be attached to the restated certificate of incorporation and delivered to the bank or trust company.

(5) Upon the issuance of the restated certificate of incorporation by the director of finance, the amended and restated articles shall supersede the original articles of agreement and all amendments thereto.

362.107. BRANCH BANKING ALLOWED, REQUIREMENTS — DIRECTOR OF FINANCE TO APPROVE, APPEALS. — 1. Every bank and every trust company organized under Missouri law may, upon compliance with this section, establish, maintain and operate branches separate and apart from the location designated in its articles of agreement.

2. No bank or trust company may establish, maintain or operate any branch without having first obtained the approval of the director of finance**; provided that a drop box for deposit purposes shall not be considered a branch**.

3. All those services which a bank or trust company is authorized by law to provide may be provided at any of its branches.

4. Whenever any bank or trust company desires to establish, maintain and operate a branch, or to move a branch previously established to another location, it shall apply to the director of finance for such authority and provide the director of finance with such relevant information as he may reasonably request. In determining whether or not to approve the application, the director of finance shall consider:

(1) The convenience, needs and welfare of the people of the community and area to be served;

(2) The financial strength of the bank or trust company making application for the branch in relation to the cost of establishing, maintaining and operating the branch;

(3) Whether any other banks or trust companies will be seriously injured by the approval of the application for the branch; provided, however, any bank which purchases assets of a **closed** bank or a failed savings and loan association closed by its chartering authority, may establish, maintain and operate branches at all locations which were operated by the closed bank or failed savings and loan association. For purposes of this section, the terms "closed bank" or "failed savings and loan association" shall include a bank or savings and loan association whose sale is arranged by the Federal Deposit Insurance Corporation**[**, Resolution Trust Corporation,**]** or similar **[**organization**] agency** in order to avoid failure.

5. The decision of the director of finance granting or denying any such application may be appealed in the same manner as decisions by him pursuant to section 362.040 may be appealed.

6. National banking associations located in Missouri shall have the same but no greater right under or by virtue of this section as banks and trust companies which are organized under Missouri law.

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.**] Loans or other extensions of credit to officers and directors shall be in accordance with Federal Reserve Board Regulation O (12 CFR 215.1, et seq.)**. 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**] of the loan or extension of credit**;

(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.

362.225. RESERVE DEPOSITARIES. — **[**1. Any bank or trust company may keep not more than fifty percent of the reserves on deposit provided for by sections 362.210, 362.215 and 362.217 invested in:

(1) Unencumbered obligations of the United States government or obligations which are fully guaranteed as to principal and interest by the United States government maturing in five years or less; or

(2) Unencumbered funds sold to approved depositaries to the extent permitted by the Federal Deposit Insurance Corporation for insured institutions; or

(3) Securities of the type eligible for investment under subdivision (1) purchased from approved depositaries under agreements to resell, to the extent permitted by the Federal Deposit Insurance Corporation for insured institutions.

2. All required reserves not so invested may be kept in a depositary or depositaries designated by it, and which, except as otherwise provided in said sections, shall be a bank, trust company or national banking association approved by the finance director.**] Missouri banks and depository trust companies shall maintain reserves against aggregate deposits as provided by the Federal Reserve Act and any amendments thereto or of regulations duly adopted and promulgated under the Federal Reserve Act for banks and trust companies of similar size and classification according to the requirements for the Federal Reserve District in which the bank or deposit trust company is located. Federal Reserve Banks located in this state are approved depositories for all banks and trust companies.**

362.310. SURPLUS FUND — COMPOSITION — PURPOSES. — Every bank and trust company shall create a fund to be known as a "surplus fund". This fund may be created or increased by contributions**[**,**]** **or** by transfers from undivided profits**[**, or from net earnings**]**. The fund up to forty percent of the capital of the bank or trust company shall be used only for the payment of losses in excess of undivided profits; provided, that the excess of surplus over forty percent, upon the approval of the director of finance, may be capitalized as a stock dividend or may be transferred to undivided profits and used for cash dividends in the discretion of the board of directors.

362.315. NET INCOME OR LOSS FOR DIVIDEND PERIOD TO BE DETERMINED — INCOME TO BE CREDITED TO SURPLUS FUND — UNDIVIDED PROFITS AVAILABLE FOR DIVIDENDS. — 1. **To determine the amount of net income or loss for the dividend period, every bank or trust company shall account for all items of income and expense in accordance with regulatory instructions for completing reports of condition and income.** When the net **[**earnings**]** **income or loss** of a bank or trust company **[**have**]** **has** been determined at the close of a dividend period **[**as provided in sections 362.300 and 362.305**]**, if its surplus fund does not equal forty percent of the capital of the bank or trust company, one-tenth of such net **[**earnings**]** **income** shall be credited to the surplus fund or so much thereof, less than one-tenth, as will make the fund equal forty percent of the capital; provided, that until the capital and surplus fund of any bank or trust company now existing, the capital of which is not equal to the requirements of section 362.050, equals forty percent more than the minimum of capital for a bank or trust company in its location, one-tenth of its net **[**earnings**]** **income** at the close of each dividend period shall be credited to the surplus fund.

2. **[**The balance of the net earnings, or the entire amount thereof if the fund equals the forty percent, may be credited to the profit and loss account of the bank or trust company; or, if its expenses and losses for the dividend period exceed its gross earnings, the excess shall be charged to its profit and loss account.

3.**]** The credit balance of the **[**account shall constitute the**]** undivided profits **account** at the close of the dividend period**[**, and shall**]** **may** be available for dividends. The directors of any bank or trust company may from time to time declare such dividends as they shall judge expedient from the undivided profits.

[4.**]** **3.** No bank or trust company shall declare, credit or pay any dividend to its stockholders until it shall have made good any existing impairment of its capital, and all officers or directors of the bank or trust company who shall assent to declaring and paying a dividend while the capital stock is so impaired shall be jointly and severally liable to the creditors of the bank or trust company to the amount of the dividend for any loss resulting from the payment of the dividend.

362.520. BANKS MAY CLOSE, WHEN — BANK HOLIDAY, EFFECT OF. — 1. Any bank or trust company organized under the laws of the state of Missouri or any national bank doing business in Missouri may remain closed on any Sunday or public holiday, as defined in section 9.010, RSMo, and, in addition, on any day of the week fixed at least fifteen days in advance by the adoption of a resolution to such effect by a majority vote of the board of directors thereof, and notice thereof posted in the bank or trust company for the same time.

2. Any bank or trust company may be closed or remain closed whenever in the judgment of the directors, the president or other officer in charge, the lives or safety of the institution's employees or the institution itself would be endangered or placed in jeopardy by an emergency arising from fire, flood, storm, snow, power failure, shortage of fuel, robbery, riot or threat of riot, or similar emergency. The bank or trust company so closed shall notify the director of finance of its action and the reasons therefor within twelve hours thereafter and such bank or trust company shall reopen within twenty-four hours after such closing unless permission shall be granted by the director of finance to remain closed for a longer period of time. On all closings under this section a full report in writing shall be furnished the director of finance.

3. Any day on which a bank or trust company organized under the laws of the state of Missouri or national bank doing business in Missouri pursuant to this section, remains closed, shall, with respect to the bank or trust company or national bank, be deemed a holiday for the purposes of chapter 400, RSMo, and amendments thereto, and the bank or trust company or national bank shall not be required to permit access to its safe-deposit vaults while it is so closed.

4. Where a contract by its terms requires the payment of money or the performance of a condition on any such day by or at such bank or trust company or national bank the payment may be made or condition performed on the next business day succeeding the day when the bank, trust company or national bank shall so remain or be closed, with the same force and effect as if made or performed in accordance with the terms of the contract.

5. A branch of any bank or trust company may be closed as provided in subsection 2 of this section, whether or not the main banking house is so closed, but the day shall not be a bank holiday as provided in subsections 3 and 4 of this section unless the main banking house is closed.

6. A branch office of any bank or trust company organized under the laws of the state of Missouri may be temporarily closed for any reasonable period of time for repairs, remodeling, or other purposes decided upon by the board of directors provided that notice of the board's resolution concerning such is both posted in the lobby and on the entrances of the affected location and supplied to the director of finance at least thirty days prior to the temporary closing.

362.600. RECIPROCAL CORPORATE FIDUCIARY POWERS — CERTIFICATES OF RECIPROCITY. — 1. The term "**[**foreign corporation**] out-of-state bank or trust company**", as used in this section, shall mean:

(1) Any bank or **[**other corporation**] trust company** now or hereafter organized under the laws of any state of the United States other than Missouri; and

(2) Any national banking association **or any thrift institution under the jurisdiction of the office of thrift supervision** having its principal place of business in any state of the United States other than Missouri.

2. Except as provided in subsection 5 of this section, any **[**foreign corporation**] out-of-state bank or trust company** may act in this state as trustee, executor, administrator, guardian, or in any other like fiduciary capacity, without the necessity of complying with any law of this state relating to the licensing of foreign banking corporations by the director of finance or relating to the qualifications of foreign corporations to do business in this state, and notwithstanding any prohibition, limitation or restriction contained in any other law of this state, provided only that:

(1) The **[**foreign corporation**] out-of-state bank or trust company** is authorized to act in this fiduciary capacity or capacities in the state in which it is incorporated, or, if the **[**foreign corporation**] out-of-state bank or trust company** be a national banking association, **or a thrift institution, it is authorized to act in this fiduciary capacity or capacities in the state** in which it has its principal place of business; and

(2) Any bank or other corporation organized under the laws of this state or a national banking association **or thrift institution** having its principal place of business in this state may act in these fiduciary capacities in that state without further showing or qualification, other than that it is authorized to act in these fiduciary capacities in this state**, compliance with minimum capital, bonding, or securities pledge requirements applicable to all banks and trust companies doing business in that state,** and compliance with any law of that state concerning service of process:

(a) Which may require the appointment of an official or other person for the receipt of process; or

(b) Which contains provisions to the effect that any bank **[**or other corporation,**] or trust company** which is not incorporated under the laws of that state, or if a national bank **or thrift institution** then which does not have its principal place of business in that state, acting in that state in a fiduciary capacity pursuant to provisions of law making it eligible to do so, shall be deemed to have appointed an official of that state to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the **[**corporation**] entity** has acted or is acting in that state in this fiduciary capacity, and that the acceptance of or engagement in that state in any acts in this fiduciary capacity shall **[**be signification of**] deemed** its agreement that the process against it, which is so served, shall be of the same legal force and validity as though served upon it personally, or which contains any substantially similar provisions.

3. Any **[**foreign corporation**] out-of-state bank or trust company** eligible to act in any fiduciary capacity in this state pursuant to the provisions of this section may so act whether or not a resident of this state be acting with it in this capacity, may use its corporate name in connection with such activity in this state, and may be appointed to act in this fiduciary capacity by any court having jurisdiction in the premises, all notwithstanding any provision of law to the contrary. Nothing in this section contained shall be construed to prohibit or make unlawful any activity in this state by a bank or **[**other corporation**] trust company** which is not incorporated under the laws of this state, or if a national bank **or thrift institution** then which does not have its principal place of business in this state, which would be lawful in the absence of this section.

[3.**] 4.** Except as provided in subsection **[**5**] 6** of this section, prior to the time when any **[**foreign corporation**] out-of-state bank or trust company** acts pursuant to the authority of this section in any fiduciary capacity or capacities in this state, the **[**foreign corporation**] out-of-state bank or trust company** shall file with the director of finance a written application for a

certificate of reciprocity and the director of finance shall issue the certificate to the **[**foreign corporation**] out-of-state bank or trust company**. The application shall state:

(1) The correct corporate name of the **[**foreign corporation**] out-of-state bank or trust company**;

(2) The name of the state under the laws of which it is incorporated, or if the **[**foreign corporation**] out-of-state bank or trust company** is a national banking association **or thrift institution** shall state that fact;

(3) The address of its principal business office;

(4) In what fiduciary capacity or capacities it desires to act, in the state of Missouri;

(5) That it is authorized to act in a similar fiduciary capacity or capacities in the state in which it is incorporated, or, if it is a national banking association, in which it has its principal place of business;

(6) That the application shall constitute the irrevocable appointment of the director of finance of Missouri as its true and lawful attorney to receive service of all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the **[**foreign corporation**] out-of-state bank or trust company** may act in this state in the fiduciary capacity pursuant to the certificate of reciprocity applied for;

(7) **[**Unless the applicant is subject to the jurisdiction of the Office of Thrift Supervision, that the applicant has provided with the application a fiduciary bond in the amount of one million dollars for the benefit of the director of the division of finance in a format approved by the director of the division of finance.**] Unless the out-of-state bank or trust company verifies to the director of the division of finance that it satisfies capital requirements equal to the new charter requirement for a Missouri trust company or that it maintains a bond for the faithful performance of all its fiduciary activities equivalent to the Missouri capital requirements, the director may require the applicant to submit a bond issued by a surety company authorized to do business in the state of Missouri in the minimum amount of one million dollars in a form or such greater amount acceptable to the director of the division of finance. The surety bond shall secure the faithful performance of the fiduciary obligations of the out-of-state bank or trust company in Missouri.**

The application shall be verified by an officer of the **[**foreign corporation**] out-of-state bank or trust company**, and there shall be filed with it such certificates of public officials and copies of documents certified by public officials as may be necessary to show that the **[**foreign corporation**] out-of-state bank or trust company** is authorized to act in a fiduciary capacity or capacities similar to those in which it desires to act in the state of Missouri, in the state in which it is incorporated, or, if it is a national banking association in which it has its principal place of business. The director of finance shall, thereupon, if the **[**foreign corporation**] out-of-state bank or trust company** is one which may act in the fiduciary capacity or capacities as provided in subsection 2 of this section, issue to the **[**corporation**] entity** a certificate of reciprocity, retaining a duplicate thereof together with the application and accompanying documents in his or her office. The certificate of reciprocity shall recite and certify that the **[**foreign corporation**] out-of-state bank or trust company** is eligible to act in this state pursuant to this section and shall recite the fiduciary capacity or capacities in which the **[**foreign corporation**] out-of-state bank or trust company** is eligible so to act.

[4.**] 5.** A certificate of reciprocity issued to any **[**foreign corporation**] out-of-state bank or trust company** shall remain in effect until the **[**foreign corporation**] out-of-state bank or trust company** shall cease to be entitled under subsection 2 of this section to act in this state in the fiduciary capacity or capacities covered by the certificate, and thereafter until revoked by the director of finance. If at any time the **[**foreign corporation**] out-of-state bank or trust company** shall cease to be entitled under subsection 2 of this section to act in this state in the fiduciary capacity or capacities covered by the certificate, the director of finance shall revoke the certificate and give written notice of the revocation to the **[**foreign corporation**] out-of-state bank or trust company**. No revocation of any certificate of reciprocity shall affect the right of the **[**foreign

corporation**] out-of-state bank or trust company** to continue to act in this state in a fiduciary capacity in estates or matters in which it has theretofore begun to act in a fiduciary capacity pursuant to the certificate.

[5.**] 6.** A **[**foreign corporation**] out-of-state bank or trust company** shall not establish or maintain in this state a place of business, branch office or agency for the conduct in this state of business as a fiduciary unless:

(1) The **[**foreign corporation**] out-of-state bank or trust company** is under the control of a Missouri bank or a Missouri bank holding company, as these terms are defined in section 362.925, and the **[**foreign corporation**] out-of-state bank or trust company** has complied with the requirements relating to the qualifications of **[**foreign corporations**] out-of-state bank or trust company** to do business in this state;

(2) The **[**foreign corporation**] out-of-state bank or trust company** is a bank, trust company or national banking association in good standing that possesses fiduciary powers from its chartering authority and is the surviving corporation to a merger or consolidation with a national banking association located in Missouri or a Missouri bank or trust company. The provisions of this subdivision are enacted to implement subsection 2 of this section and section 362.610, and the provisions of Title 12, U.S.C. 36(f)(2) of the National Bank Act; or

(3) The **[**foreign corporation**] out-of-state bank or trust company** is a state-chartered bank, savings and loan association, trust company **[**or**]**, national banking association**, or thrift institution** in good standing that possesses fiduciary powers and has received a certificate of reciprocity, in which case it may only open a trust representative office in Missouri which is not otherwise a branch of such **[**foreign corporation**] out-of-state bank or trust company**, provided a bank, savings and loan association or trust company chartered under the laws of Missouri and a national bank **or thrift institution** with its principal location in Missouri, all with fiduciary powers, are permitted to open and operate a trust representative office under the same or less restrictive conditions in the state in which the **[**foreign corporation**] out-of-state bank or trust company** is organized or has its principal office.

[6.**] 7. [**A foreign corporation**] An out-of-state bank or trust company**, insofar as it acts in a fiduciary capacity in this state pursuant to the provisions of this section, shall not be deemed to be transacting business in this state, if the **[**foreign corporation**] out-of-state bank or trust company** does not establish or maintain in this state a place of business, branch office, or agency for the conduct in this state of business as a fiduciary.

[7.**] 8.** Every **[**foreign corporation**] out-of-state bank or trust company** to which a certificate of reciprocity shall have been issued shall be deemed to have appointed the director of finance to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the **[**foreign corporation**] out-of-state bank or trust company** acts in this state in any fiduciary capacity pursuant to the certificate of reciprocity. Service of the process shall be made by delivering a copy of the summons or other process, with a copy of the petition when service of the copy is required by law, **[**together with a remittance of one dollar (to be taxed as costs in the action or proceeding),**]** to the director of finance or to any person in his or her office authorized by him to receive the service. The director of finance shall immediately forward the process, together with the copy of the petition, if any, to the **[**foreign corporation**] out-of-state bank or trust company**, by registered mail, addressed to it at the address on file with the director, or if there be none on file then at its last known address. The director of finance shall keep a permanent record in his or her office showing for all process served, the style of the action or proceeding, the court in which it was brought, the name and title of the officer serving the process, the day and hour of service, and the day of mailing by registered mail to the **[**foreign corporation**] out-of-state bank or trust company** and the address to which mailed. In case the process is issued by **[**an associate circuit judge**] a court**, the same may be directed to and served by any officer authorized to serve process in the city or county where the director of finance shall have his or her office, at least fifteen days before the return thereof.

[362.210. RESERVES AGAINST DEMAND DEPOSITS. — 1. Every bank and trust company shall maintain total reserves against its aggregate demand deposits as follows:

(1) Eighteen percent of the deposits, if the bank or trust company is located in a city having a population of two hundred thousand or over;

(2) Fifteen percent of the deposits, if the bank or trust company is located in a city having a population of twenty-five thousand or over and less than two hundred thousand;

(3) Fifteen percent of the deposits, if the bank or trust company is located elsewhere in the state.

2. If any bank or trust company shall have become a member of any reserve bank, it may maintain as reserves on deposit with the federal reserve bank such portion of its total reserves as shall be required or permitted of members of the federal reserve bank.**]**

[362.213. RESERVES AGAINST DEMAND DEPOSITS, APPLICABLE, WHEN. — Notwithstanding anything to the contrary contained in section 362.210, or any other law of this state, no bank or trust company will be required to maintain any percentage of reserves against its aggregate demand deposits which is greater than the percentage required by the Federal Reserve Act and any amendments thereto or of regulations duly adopted and promulgated thereunder for banks or trust companies of similar size and classification, and provided further that the percentage of reserves required of banks or trust companies not members of the Federal Reserve System shall at no time exceed the limits set by section 362.210.**]**

[362.215. RESERVES AGAINST TIME DEPOSITS. — In addition to reserves against demand deposits every bank and trust company shall maintain reserves against its aggregate time deposits of at least three percent of the time deposits, which shall be maintained as reserves on hand as provided in section 362.210.**]**

[362.217. RESERVES, FEDERAL RESERVE MEMBER BANKS. — Any bank or trust company becoming a member of a federal reserve bank and while it continues as such member, shall be required to maintain only such reserves as are required by the Federal Reserve Act and any amendments thereto.**]**

[362.300. CALCULATION OF GROSS EARNINGS FOR DIVIDEND PERIOD. — To determine the amount of gross earnings of a bank or trust company for any dividend period, the following items may be included:

(1) All earnings actually received during the period, less interest accrued and unpaid included in the last previous calculation of earnings;

(2) Interest accrued and unpaid upon debts owing to it secured by collateral as authorized by this chapter upon which debts no default of more than one year exists and upon corporate stocks, bonds or other interest-bearing obligations owned by it upon which no default exists;

(3) The sums added to the cost of securities purchased for less than par as a result of amortization, provided the market value of such securities is at least equal to their present cost as determined by amortization;

(4) Any profits actually received during the period from the sale of securities, real estate or other property owned by it;

(5) Sums recovered on items previously charged off, and any amounts allowed by the director on account of assets previously disallowed and charged off; provided, the director shall have approved, and only to the extent of his approval, any increase in the book value of an office building owned by it, which building or a portion thereof is used by it as a place of business.**]**

[362.305. CALCULATION OF NET EARNINGS FOR DIVIDEND PERIOD. — 1. To determine the amount of net earnings for the dividend period, the following items shall be deducted from gross earnings:

(1) All expenses paid or incurred, both ordinary and extraordinary, in the transaction of its business, the collection of its debts and the management of its affairs, properly belonging to the period under consideration for the calculation of net earnings for dividend purposes, and not previously deducted for these purposes;

(2) Interest paid, or accrued and unpaid, upon debts owing by it, and properly belonging to the period under consideration for the calculation of net earnings for dividend purposes, and not previously deducted for these purposes;

(3) The amounts deducted through amortization from the cost of corporate stocks, bonds or other interest-bearing obligations purchased above par in order to bring them to par at maturity;

(4) All losses sustained by it. In the computation of the losses all debts owing it shall be included upon which no interest shall have been paid for more than two years or on which a judgment has been recovered which shall have remained unsatisfied for two years; provided, that the director, in either case, may extend the time beyond the period of two years; and such other assets as shall have been disallowed by the director or by its board of directors.

2. The balance thus obtained shall constitute the net earnings of such bank or trust company for such period.**]**

Approved July 12, 2005

HB 738 [HB 738]

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 laws regarding the licensure of real estate appraisers

AN ACT to repeal section 339.515, RSMo, and to enact in lieu thereof one new section relating to real estate appraisers, with an emergency clause.

SECTION

A. Enacting clause.
339.515. Examination, content, validity period, must retake, when — failure to pass reexamination, when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 339.515, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 339.515, to read as follows:

339.515. EXAMINATION, CONTENT, VALIDITY PERIOD, MUST RETAKE, WHEN — FAILURE TO PASS REEXAMINATION, WHEN. — 1. An original certification as a state-certified real estate appraiser may be issued to any person who meets the qualification requirements for certification and who has achieved a passing grade on a written examination which is consistent with and equivalent to the uniform state certification examination issued or endorsed by the appraiser qualifications board of the appraisal foundation and the commission.

2. An original license as a state-licensed real estate appraiser may be issued to any person who meets the qualification requirements for licensure and who has achieved a passing grade on a written examination which is consistent with and equivalent to the uniform state licensure examination issued or endorsed by the appraiser qualifications board of the appraisal foundation and the commission.

3. If an applicant is not certified or licensed within **[**three**] two** years after passing an examination given pursuant to the provisions of this section, he or she shall be required to retake the examination prior to certification or licensure.

4. An applicant who has failed an examination taken pursuant to this section may apply for reexamination by submitting an application with the appropriate examination fee within ninety days after the date of having last taken and failed the examination.

SECTION B. EMERGENCY CLAUSE. — Because of the need to comply with federal law, 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 6, 2005

HB 743 [HB 743]

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

Authorizes the Governor to convey state property located in Madison County to the United States government for forestry purposes

AN ACT to authorize the conveyance of property owned by the state in Madison County to the United States for national forest purposes.

SECTION

1. Conveyance of state property in Madison County to the United States for a national forest.

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

SECTION 1. CONVEYANCE OF STATE PROPERTY IN MADISON COUNTY TO THE UNITED STATES FOR A NATIONAL FOREST. — 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 Madison County to the United States of America for national forest purposes. The property to be conveyed is more particularly described as follows:

All of the Northwest Quarter of the Northwest Quarter of Section 16, Township 32 North, Range 6 East of the Fifth Principal Meridian, Madison County, State of Missouri; being 40.00 acres, more or less, known as Parcel 79-11-05-16-0-0-8 in the Madison County Assessor's Office.

2. Consideration for the conveyance shall be one dollar and other valuable consideration.

3. The commissioner of administration shall set the final terms and conditions for the sale as the commissioner deems reasonable.

4. The attorney general shall approve the form of the instrument of conveyance.

Approved June 22, 2005

HB 824 [HCS HB 824]

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 laws regarding air contaminant fees, the Land Reclamation Commission, and certain appeals before the Administrative Hearing Commission

AN ACT to repeal sections 444.765, 621.015, and 643.079, RSMo, and to enact in lieu thereof six new sections relating to environmental regulation.

SECTION

A. Enacting clause.
444.765. Definitions.
444.766. Exceptions to land reclamation act provisions.
621.015. Administrative hearing commission, number of commissioners — qualifications — appointment — terms — compensation.
621.250. Appeals from certain environmental commissions decisions to be heard by administrative hearing commission — procedure.
640.013. Appeals from certain environmental commissions decisions to be heard by administrative hearing commission.
643.079. Fees, amount — deposit of moneys, where, subaccount to be maintained — civil action for failure to remit fees, effect upon permit — agencies, determination of fees.

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

SECTION A. ENACTING CLAUSE. — Sections 444.765, 621.015, and 643.079, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 444.765, 444.766, 621.015, 621.250, 640.013, and 643.079, to read as follows:

444.765. DEFINITIONS. — Wherever used or referred to in sections 444.760 to 444.790, unless a different meaning clearly appears from the context, the following terms mean:

(1) "Affected land", the pit area or area from which overburden shall have been removed, or upon which overburden has been deposited after September 28, 1971. When mining is conducted underground, affected land means any excavation or removal of overburden required to create access to mine openings, except that areas of disturbance encompassed by the actual underground openings for air shafts, portals, adits and haul roads in addition to disturbances within fifty feet of any openings for haul roads, portals or adits shall not be considered affected land. Sites which exceed the excluded areas by more than one acre for underground mining operations shall obtain a permit for the total extent of affected lands with no exclusions as required under sections 444.760 to 444.790;

(2) **"Beneficiation", the dressing or processing of minerals for the purpose of regulating the size of the desired product, removing unwanted constituents, and improving the quality or purity of a desired product;**

(3) "Commercial purpose", the purpose of extracting minerals for their value in sales to other persons or for incorporation into a product;

(4) "Commission", the land reclamation commission in the department of natural resources;

(5) "Construction", construction, erection, alteration, maintenance, or repair of any facility including but not limited to any building, structure, highway, road, bridge, viaduct, water or sewer line, pipeline or utility line, and demolition, excavation, land clearance, and moving of minerals or fill dirt in connection therewith;

[(3)**] (6)** "Director", the staff director of the land reclamation commission;

(7) "Excavation", any operation in which earth, minerals, or other material in or on the ground is moved, removed, or otherwise displaced for purposes of construction at the site of excavation, by means of any tools, equipment, or explosives and includes, but is not

limited to, backfilling, grading, trenching, digging, ditching, drilling, well-drilling, auguring, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, demolition of structures, and the use of high-velocity air to disintegrate and suction to remove earth and other materials. For purposes of this section, excavation or removal of overburden for purposes of mining for a commercial purpose or for purposes of reclamation of land subjected to surface mining is not included in this definition. Neither shall excavations of sand and gravel by political subdivisions using their own personnel and equipment or private individuals for personal use be included in this definition;

(8) "Fill dirt", material removed from its natural location through mining or construction activity, which is a mixture of unconsolidated earthy material, which may include some minerals, and which is used to fill, raise, or level the surface of the ground at the site of disposition, which may be at the site it was removed or on other property, and which is not processed to extract mineral components of the mixture. Backfill material for use in completing reclamation is not included in this definition;

(9) "Land improvement", work performed by or for a public or private owner or lessor of real property for purposes of improving the suitability of the property for construction at an undetermined future date, where specific plans for construction do not currently exist;

[(4)**] (10)** "Mineral", a constituent of the earth in a solid state which, when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form as a chemical, an energy source, or raw material for manufacturing or construction material. For the purposes of this section, this definition includes barite, tar sands, and oil shales, but does not include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas together with other chemicals recovered therewith;

(11) "Mining", the removal of overburden and extraction of underlying minerals or the extraction of minerals from exposed natural deposits for a commercial purpose, as defined by this section;

[(5)**] (12)** "Operator", any person, firm or corporation engaged in and controlling a surface mining operation;

[(6)**] (13)** "Overburden", all of the earth and other materials which lie above natural deposits of minerals; and also means such earth and other materials disturbed from their natural state in the process of surface mining other than what is defined in subdivision **[**(4)**] (10)** of this section;

[(7)**] (14)** "Peak", a projecting point of overburden created in the surface mining process;

[(8)**] (15)** "Pit", the place where minerals are being or have been mined by surface mining;

(16) "Public entity", the state or any officer, official, authority, board, or commission of the state and any county, city, or other political subdivision of the state, or any institution supported in whole or in part by public funds;

[(9)**] (17)** "Refuse", all waste material directly connected with the cleaning and preparation of substance mined by surface mining;

[(10)**] (18)** "Ridge", a lengthened elevation of overburden created in the surface mining process;

[(11)**] (19)** "Site" or "mining site", any location or group of associated locations where minerals are being surface mined by the same operator;

[(12)**] (20)** "Surface mining", the mining of minerals for commercial purposes by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed, and shall include mining of exposed natural deposits of such minerals over which no overburden lies and, after August 28, 1990, the surface effects of underground mining operations for such minerals. **For purposes of the provisions of sections 444.760 to 444.790, surface mining shall not include excavations to move minerals or fill dirt within the confines of the real property where excavation occurs or to remove minerals or fill dirt from the real property in preparation for construction at the site of excavation. No**

excavation of fill dirt shall be deemed surface mining regardless of the site of disposition or whether construction occurs at the site of excavation.

444.766. EXCEPTIONS TO LAND RECLAMATION ACT PROVISIONS. — No provision of sections 447.760 to 444.790 shall apply to the excavation of minerals or fill dirt for the purposes of construction or land improvement as unrelated to the mining of minerals for a commercial purpose or reclamation of land subsequent to the surface mining of minerals.

1. No permit is required under sections 444.760 to 444.790 for the purpose of moving minerals or fill dirt within the confines of real property where excavation occurs, or for purposes of removing minerals or fill dirt from the real property as provided in this section.

(1). Excavations for construction pursuant to engineering plans and specifications prepared by an architect, professional engineer, or landscape architect licensed pursuant to chapter 327, RSMo, or any excavation for construction performed under a written contract that requires excavation of minerals or fill dirt and establishes dates for completion of work and specifies the terms of payment for work, shall be presumed to be for the purposes of construction and shall not require a permit for surface mining.

(2). Excavations for purposes of land improvement where minerals removed from the site are excess minerals that cannot be used on-site for any practical purpose and at no time are subjected to crushing, screening, or other means of benefication with the exception of removal of tree limbs and stumps, shall be presumed to be for the purposes of land improvement and shall not require a permit for surface mining, provided that:

(a) The site has not been designated as a surface mine by the federal Mine Safety and Health Administration;

(b) Minerals from the property are not used for commercial purposes on a frequent or on-going basis; and

(c) A pit, peak, or ridge does not persist at the site as inconsistent with the purposes of land improvement.

(3). Permits shall not be required for the excavation of fill dirt, regardless of the site of disposition or whether construction occurs at the site of excavation.

2. (1) If the director or his or her designee determines that a surface mining permit is required for real property which is purported to be for purposes of construction or land improvement not requiring a surface mining permit under this section, such determination shall be sent in writing to the owner of the property by certified mail stating the reasons for such determination. Upon request of the person receiving the letter, an informal conference shall be scheduled with the director within fifteen calendar days to discuss the determination. Following the informal conference, the director shall issue a written determination regarding his or her findings of fact no later than thirty calendar days after the date of the conference. If the director agrees that a surface mining permit is required and the person disagrees with that decision, the person may make a written request for a hearing before the commission at its next regular meeting. Such written request shall be filed within thirty calendar days after receipt of the director's written determination, except when the thirtieth day would be later than the date of the next regularly scheduled commission meeting, the written request shall be filed at least seven days prior to the commission meeting unless the director and the person filing the request mutually agree to place the matter on the commission's agenda for a later meeting. The commission shall issue a written determination as to whether a surface mining permit is required under this state's law within thirty calendar days after the hearing. The written determination may be appealed as provided under this chapter.

(2) Until a final written determination has been issued under the process established under subdivision (1) of this subsection, the person receiving a letter stating the reasons a mining permit is required may continue activity at the site in dispute. The commission

may stay the director's determination. If the final written determination is that a permit is required, all fees otherwise provided by statute or rules of the commission shall apply. If the determination is that no permit is required, no permit fees shall be required by the director or the commission.

(3) The process set out in this subsection for determining whether a mining permit is required shall not be subject to the hearing requirements of section 444.789.

621.015. ADMINISTRATIVE HEARING COMMISSION, NUMBER OF COMMISSIONERS — QUALIFICATIONS — APPOINTMENT — TERMS — COMPENSATION. — The "Administrative Hearing Commission" is assigned to the office of administration. It shall consist of no more than three commissioners. The commissioners shall be appointed by the governor with the advice and consent of the senate. The term of each commissioner shall be for six years and until his successor is appointed, qualified and sworn. The commissioners shall be attorneys at law admitted to practice before the supreme court of Missouri, but shall not practice law during their term of office. Each commissioner shall receive annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Each commissioner shall also be entitled to actual and necessary expenses in the performance of his duties. The office of the administrative hearing commission shall be located in the City of Jefferson and it may employ necessary clerical assistance, compensation and expenses of the commissioners to be paid from appropriations **[**from general revenue**]** made for that purpose.

621.250. APPEALS FROM CERTAIN ENVIRONMENTAL COMMISSIONS DECISIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION — PROCEDURE. — **1. All authority to hear appeals granted in chapters 260, 444, 640, 643, and 644, RSMo, and to the hazardous waste management commission in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in chapter 640, RSMo, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall be transferred to the administrative hearing commission under this chapter. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection.**

2. Except as otherwise provided by law, any person or entity who is a party to, or who is affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative hearing commission in subsection 1 of this section shall be entitled to a hearing before the administrative hearing commission by the filing of a petition with the administrative hearing commission within thirty days after any such finding, order, decision, or assessment is placed in the United States mail or within thirty days of any such finding, order, decision, or assessment being delivered, whichever is earlier.

3. Any decision by the director of the department of natural resources that may be appealed to the commissions listed in subsection 1 of section 621.052 and shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may appeal to have the matter heard by the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.". Within fifteen days after the administrative hearing commission renders its recommended decision, it shall transmit the record and a transcript of the proceedings, together with the administrative hearing commission's recommended decision to the commission having authority to issue

a final decision. The decision of the commission shall be based only on the facts and evidence in the hearing record. The commission may adopt the recommended decision as its final decision. The commission may change a finding of fact or conclusion of law made by the administrative hearing commission, or may vacate or modify the recommended decision issued by the administrative hearing commission, only if the commission states in writing the specific reason for a change made under this subsection.

4. In the event the person filing the appeal prevails in any dispute under this section, interest shall be allowed upon any amount found to have been wrongfully collected or erroneously paid at the rate established by the director of the department of revenue under section 32.065, RSMo.

5. Appropriations shall be made from the respective funds of the various commissions to cover the administrative hearing commission's costs associated with these appeals.

6. In all matters heard by the administrative hearing commission under this section, the burden of proof shall comply with section 640.012, RSMo. The hearings shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 536, RSMo, and its regulations promulgated thereunder.

640.013. APPEALS FROM CERTAIN ENVIRONMENTAL COMMISSIONS DECISIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION. — All authority to hear appeals granted in this chapter and chapters 260, 444, 643, and 644, RSMo, and to the hazardous waste management commission in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall be transferred to the administrative hearing commission under chapter 621, RSMo. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection.

643.079. FEES, AMOUNT — DEPOSIT OF MONEYS, WHERE, SUBACCOUNT TO BE MAINTAINED — CIVIL ACTION FOR FAILURE TO REMIT FEES, EFFECT UPON PERMIT — AGENCIES, DETERMINATION OF FEES. — 1. Any air contaminant source required to obtain a permit issued under sections 643.010 to 643.190 shall pay annually beginning April 1, 1993, a fee as provided herein. For the first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted. Thereafter, the fee shall be annually set by the commission by rule and shall be at least twenty-five dollars per ton of regulated air contaminant emitted but not more than forty dollars per ton of regulated air contaminant emitted in the previous calendar year. The fee shall be set at an amount consistent with the need to fund the reasonable cost of administering sections 643.010 to 643.190, taking into account other moneys received pursuant to sections 643.010 to 643.190. For the purpose of determining the amount of air contaminant emissions on which the fees authorized under this section are assessed, a facility shall be considered one source under the definition of subsection 2 of section 643.078, except that a facility with multiple operating permits shall pay the emission fees authorized under this section separately for air contaminants emitted under each individual permit.

2. A source which produces charcoal from wood shall pay an annual emission fee under this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated air contaminant emitted for the first four thousand tons of each contaminant emitted in the amount established by the commission pursuant to subsection 1 of this section, reduced according to the following schedule:

(1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be reduced by one hundred percent;

(2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall be reduced by eighty percent;

(3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall be reduced by sixty percent.

3. The fees imposed in subsection 2 of this section shall not be imposed or collected after the year 2000 unless the general assembly reimposes the fee.

4. Each air contaminant source with a permit issued under sections 643.010 to 643.190 shall pay the fee for the first four thousand tons of each regulated air contaminant emitted each year but no air contaminant source shall pay fees on total emissions of regulated air contaminants in excess of twelve thousand tons in any calendar year. A permitted air contaminant source which emitted less than one ton of all regulated pollutants shall pay a fee equal to the amount per ton set by the commission. An air contaminant source which pays emission fees to a holder of a certificate of authority issued pursuant to section 643.140 may deduct such fees from any amount due under this section. The fees imposed in this section shall not be applied to carbon oxide emissions. The fees imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide emissions from any Phase I affected unit subject to the requirements of Title IV, section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any sooner than January 1, 2000. The fees imposed on emissions from Phase I affected units shall be consistent with and shall not exceed the provisions of the federal Clean Air Act, as amended, and the regulations promulgated thereunder. Any such fee on emissions from any Phase I affected unit shall be reduced by the amount of the service fee paid by that Phase I affected unit pursuant to subsection 8 of this section in that year. Any fees that may be imposed on Phase I sources shall follow the procedures set forth in subsection 1 and this subsection and shall not be applied retroactively.

5. Moneys collected under this section shall be transmitted to the director of revenue for deposit in appropriate subaccounts of the natural resources protection fund created in section 640.220, RSMo. A subaccount shall be maintained for fees paid by air contaminant sources which are required to be permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section 7661, et seq., and used, upon appropriation, to fund activities by the department to implement the operating permits program authorized by Title V of the federal Clean Air Act, as amended. Another subaccount shall be maintained for fees paid by air contaminant sources which are not required to be permitted under Title V of the federal Clean Air Act as amended, and used, upon appropriation, to fund other air pollution control program activities. Another subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase I affected units which are subject to the requirements of Title IV, section 404, of the federal Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control program activities. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end of each biennium. Interest earned by moneys in the subaccounts shall be retained in the subaccounts. The **[**minimum and maximum limits for**]** per ton fees established under subsection 1 of this section may be adjusted annually, consistent with the need to fund the reasonable costs of the program, **[**by the same percentage as the percentage change in the general price level as measured by the Consumer Price Index for all Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency**]** **but shall not be less than twenty-five dollars per ton of regulated air contaminant not more than forty dollars per ton of regulated air contaminant**. The first adjustment shall apply to moneys payable on April 1, 1994, and shall be based upon the general price level for the twelve month period ending on August thirty-first of the previous calendar year.

6. The department may initiate a civil action in circuit court against any air contaminant source which has not remitted the appropriate fees within thirty days. In any judgment against the source, the department shall be awarded interest at a rate determined pursuant to section

408.030, RSMo, and reasonable attorney's fees. In any judgment against the department, the source shall be awarded reasonable attorney's fees.

7. The department shall not suspend or revoke a permit for an air contaminant source solely because the source has not submitted the fees pursuant to this section.

8. Any Phase I affected unit which is subject to the requirements of Title IV, section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning April 1, 1993, and terminating December 31, 1999, a service fee for the previous calendar year as provided herein. For the first year, the service fee shall be twenty-five thousand dollars for each Phase I affected generating unit to help fund the administration of sections 643.010 to 643.190. Thereafter, the service fee shall be annually set by the commission by rule, following public hearing, based on an annual allocation prepared by the department showing the details of all costs and expenses upon which such fees are based consistent with the department's reasonable needs to administer and implement sections 643.010 to 643.190 and to fulfill its responsibilities with respect to Phase I affected units, but such service fee shall not exceed twenty-five thousand dollars per generating unit. Any such Phase I affected unit which is located on one or more contiguous tracts of land with any Phase II generating unit that pays fees under subsection 1 or subsection 2 of this section shall be exempt from paying service fees under this subsection. A "contiguous tract of land" shall be defined to mean adjacent land, excluding public roads, highways and railroads, which is under the control of or owned by the permit holder and operated as a single enterprise.

9. The department of natural resources shall determine the fees due pursuant to this section by the state of Missouri and its departments, agencies and institutions, including two- and four-year institutions of higher education. The director of the department of natural resources shall forward the various totals due to the joint committee on capital improvements and the directors of the individual departments, agencies and institutions. The departments, as part of the budget process, shall annually request by specific line item appropriation funds to pay said fees and capital funding for projects determined to significantly improve air quality. If the general assembly fails to appropriate funds for emissions fees as specifically requested, the departments, agencies and institutions shall pay said fees from other sources of revenue or funds available. The state of Missouri and its departments, agencies and institutions may receive assistance from the small business technical assistance program established pursuant to section 643.173.

Approved July 6, 2005

HB 866 [HCS HB 866]

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 laws regarding insurance fraud and the penalties imposed

AN ACT to repeal sections 375.146 and 375.991, RSMo, and to enact in lieu thereof three new sections relating to insurance fraud, with penalty provisions.

SECTION

A. Enacting clause.
375.144. Prohibited acts in connection with the offer, sale, solicitation, or negotiation of insurance.
375.146. Violation, penalty.
375.991. Fraudulent insurance act, committed, when — powers and duties of department — penalties.

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

SECTION A. ENACTING CLAUSE. — Sections 375.146 and 375.991, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 375.144, 375.146, and 375.991, to read as follows:

375.144. PROHIBITED ACTS IN CONNECTION WITH THE OFFER, SALE, SOLICITATION, OR NEGOTIATION OF INSURANCE. — It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

(1) Employ any deception, device, scheme, or artifice to defraud;

(2) As to any material fact, make or use any misrepresentation, concealment, or suppression;

(3) Engage in any pattern or practice of making any false statement of material fact; or

(4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

375.146. VIOLATION, PENALTY. — 1. Any person who knowingly employs, uses or engages in any act, scheme, device or practice in violation of section 375.144 with the purpose to defraud shall upon conviction be fined not more than one hundred thousand dollars and imprisoned not more than ten years, or both. In addition to any fine, imprisonment, or fine and imprisonment imposed, the court may order restitution to the victim in an amount equal to twice the losses due to such offense. If the offender holds a license under these sections, the court imposing sentence shall order the department of insurance to revoke such license.

2. Any person willfully violating any of the provisions of sections 375.012 to 375.141 is guilty of a class A misdemeanor and on conviction thereof, if the offender holds a license under these sections, the court imposing sentence shall order the department of insurance to revoke the license.

3. The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney or circuit attorney who may, with or without reference, initiate the appropriate criminal proceedings.

4. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime in any other state statute.

375.991. FRAUDULENT INSURANCE ACT, COMMITTED, WHEN — POWERS AND DUTIES OF DEPARTMENT — PENALTIES. — 1. As used in sections 375.991 to 375.994, the term "statement" means any communication, notice statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of damages, bills for services, diagnosis, prescription, hospital or doctor records, x-rays, test results or other evidence of loss, injury or expense.

2. For the purposes of sections 375.991 to 375.994, a person commits a "fraudulent insurance act" if **[**he**]** **such person** knowingly presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, purported insurer, broker, or any agent thereof, any oral or written statement including computer generated documents as part of, or in support of, an application for the issuance of, or the rating of, an insurance policy for commercial or personal insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance, which **[**he**]** **such person** knows to contain materially false information concerning any fact material thereto or if **[**he**]** **such person** conceals, for the purpose of misleading another, information concerning any fact material thereto.

3. A "fraudulent insurance act" shall also include but not be limited to knowingly filing false insurance claims with an insurer, health services corporation, or health maintenance organization by engaging in any one or more of the following false billing practices:

(1) "Unbundling", an insurance claim by claiming a number of medical procedures were performed instead of a single comprehensive procedure;

(2) "Upcoding", an insurance claim by claiming that a more serious or extensive procedure was performed than was actually performed;

(3) "Exploding", an insurance claim by claiming a series of tests was performed on a single sample of blood, urine, or other bodily fluid, when actually the series of tests was part of one battery of tests; or

(4) "Duplicating", a medical, hospital or rehabilitative insurance claim made by a health care provider by resubmitting the claim through another health care provider in which the original health care provider has an ownership interest.

Nothing in sections 375.991 to 375.994 shall prohibit providers from making good faith efforts to ensure that claims for reimbursement are coded to reflect the proper diagnosis and treatment.

4. If, by its own inquiries or as a result of complaints, the department of insurance has reason to believe that a person has engaged in, or is engaging in, any fraudulent insurance act or has violated any provision of chapters 375 to 385, RSMo, it may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses or proffering of matter, and collect evidence. **The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney or circuit attorney who may, with or without such reference, initiate the appropriate criminal proceedings.**

5. If the matter that the department of insurance seeks to obtain by request is located outside the state, the person so requested may make it available to the department or its representative to examine the matter at the place where it is located. The department may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states.

6. A fraudulent insurance act for a first offense is a class D felony. Any person who pleads guilty to or is found guilty of a fraudulent insurance act who has previously pled guilty to or has been found guilty of a fraudulent insurance act shall be guilty of a class C felony.

7. Any person who pleads guilty or is found guilty of a fraudulent insurance act shall be ordered by the court to make restitution to any person or insurer for any financial loss sustained as a result of such violation. The court shall determine the extent and method of restitution.

8. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime by any other state statute.

Approved July 12, 2005

HB 972 [SS#2 SCS HCS HB 972]

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 laws regarding crime

AN ACT to repeal sections 311.310, 565.024, 566.083, 568.050, 577.001, and 577.023, RSMo, and to enact in lieu thereof thirteen new sections relating to crime, with penalty provisions and an emergency clause for a certain section.

SECTION

A. Enacting clause.
67.2540. Definitions.
67.2546. Restrictions, prohibitions — violation, penalty.
67.2552. Prohibited acts, penalties — public policy interest to be protected.
217.735. Lifetime supervision required for certain offenders — electronic monitoring — termination at age sixty-five permitted, when — rulemaking authority.
311.310. Sale to minor — certain other persons, misdemeanor — exceptions — permitting drinking or possession by a minor, penalty, exception.

559.106. Lifetime supervision of certain offenders — electronic monitoring — termination at age sixty-five permitted, when.
565.024. Involuntary manslaughter, penalty.
566.083. Sexual misconduct involving a child, penalty.
568.050. Endangering the welfare of a child in the second degree.
575.205. Tampering with electronic monitoring equipment.
575.206. Violating a condition of lifetime supervision.
577.001. Chapter definitions.
577.023. Persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 311.310, 565.024, 566.083, 568.050, 577.001, and 577.023, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 67.2540, 67.2546, 67.2552, 217.735, 311.310, 559.106, 565.024, 566.083, 568.050, 575.205, 575.206, 577.001, and 577.023, to read as follows:

67.2540. DEFINITIONS. — As used in sections 67.2540 to 67.2556, the following terms mean:

(1) "Adult cabaret", a nightclub, bar, restaurant, or similar establishment in which persons regularly appear in a state of nudity, as defined in section 573.500, RSMo, or semi-nudity in the performance of their duties;

(2) "Employee", a person who is at least twenty-one years of age and who performs any service on the premises of a sexually-oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. The term employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises;

(3) "Nudity" or a "state of nudity", the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or anal cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state;

(4) "Nuisance", any place in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued, or exists, or any place, in or upon which lewd, indecent, lascivious, or obscene films, or films designed to be projected for exhibition, are photographed, manufactured, developed, screened, exhibited, or otherwise prepared or shown, and the personal property and contents used in conducting and maintaining any such place for any such purpose. The provisions of this section shall not affect any newspaper, magazine, or other publication entered as second class matter by the post office department;

(5) "Person", an individual, proprietorship, partnership, corporation, association, or other legal entity;

(6) "Semi-nude" or in a "semi-nude condition", a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi-nudity shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by wearing apparel provided the areola is not exposed in whole or part;

(7) "Sexually-oriented business", an adult cabaret or any business which offers its patrons goods of which a substantial or significant portion are sexually-oriented material. It shall be presumed that a business that derives thirty percent or less of its revenue from sexually oriented materials is presumed not to be a sexually-oriented business. No

building, premises, structure, or other facility that contains any sexually-oriented business shall contain any other kind of sexually-oriented business;

(8) "Sexually-oriented materials", any pictorial or three dimensional material, or film, motion picture, DVD, video cassette, or similar photographic reproduction, that depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined in section 573.010, RSMo;

(9) "Specified criminal activity", includes the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling prohibited under Missouri law; or distribution of a controlled substance; or any similar offenses described in this subdivision under the criminal or penal code of other states or countries;

(b) For which:

a. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

b. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period;

(c) The fact that a conviction is being appealed shall not prevent a sexually-oriented business from being considered a nuisance and closed under section 67.2546;

(10) "Specified sexual activities", includes the following acts:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(b) Sex acts, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(c) Excretory functions as part of or in connection with any of the activities set forth in this subdivision.

67.2546. RESTRICTIONS, PROHIBITIONS — VIOLATION, PENALTY. — 1. A person who operates or causes to be operated a sexually-oriented business shall be prohibited from exhibiting in a viewing room on the premises a film, video cassette, DVD, or other video reproduction that depicts specified sexual activities unless the viewing room is visible from a continuous main aisle in the sexually-oriented business and such viewing room is not obscured by any curtain, door, wall, or other enclosure. No viewing room shall be occupied by more than one individual at a time and there shall be no aperture between viewing rooms which is designed or constructed to facilitate sexual activity between persons in different rooms.

2. If a sexually-oriented business allows specified criminal activity or specified sexual activity on its premises or otherwise fails to comply with the provisions of subsection 1 of this section, it shall be considered a nuisance as defined by section 67.2540, and shall be closed pursuant to section 567.080, RSMo.

3. A person violating the provisions of subsection 1 of this section is guilty of a class A misdemeanor.

67.2552. PROHIBITED ACTS, PENALTIES — PUBLIC POLICY INTEREST TO BE PROTECTED. — 1. It shall be a class A misdemeanor for a person, in a sexually-oriented

business, to knowingly and intentionally appear in a state of nudity or depict, simulate, or perform specified sexual activities.

2. It shall be a class A misdemeanor for a person to appear knowingly or intentionally in a sexually-oriented business in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet from any patron or customer and on a stage at least two feet from the floor and behind a railing no less than twenty-four inches in height.

3. It shall be a class A misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

4. It shall be a class A misdemeanor if a person knowingly allows on the premises of a sexually-oriented business a person under the age of twenty-one years, except for a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

5. The provisions of sections 67.2540 to 67.2552 are designed to protect the following public policy interest of this state, including but not limited to: to mitigate the adverse secondary effects of sexually-oriented businesses, to limit harm to minors, and to reduce prostitution, crime, juvenile delinquency, deterioration in property values and lethargy in neighborhood improvement efforts.

217.735. LIFETIME SUPERVISION REQUIRED FOR CERTAIN OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN — RULEMAKING AUTHORITY. — 1. Notwithstanding any other provision of law to the contrary, the board shall supervise an offender for the duration of his or her natural life when the offender has pleaded guilty to or been found guilty of an offense under sections 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after August 28, 2005, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section.

2. For the purpose of this section, a prior sex offender is a person who has previously been found guilty of an offense contained in chapter 566, RSMo.

3. Subsection 1 of this section applies to offenders who have been granted probation, and to offenders who have been released on parole, conditional release, or upon serving their full sentence without early release. Supervision of an offender who was released after serving his or her full sentence will be considered as supervision on parole.

4. A mandatory condition of lifetime supervision of an offender under this section is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

5. In appropriate cases as determined by a risk assessment, the board may terminate the supervision of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

6. In accordance with section 217.040, the board may adopt rules relating to supervision and electronic monitoring of offenders under this section.

311.310. SALE TO MINOR — CERTAIN OTHER PERSONS, MISDEMEANOR — EXCEPTIONS — PERMITTING DRINKING OR POSSESSION BY A MINOR, PENALTY, EXCEPTION. — 1. Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not

apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

2. Any owner, occupant, or other person or legal entity with a lawful right to the use and enjoyment of any property is prohibited from knowingly allowing a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly failing to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one to drink or possess intoxicating liquor is his or her parent or guardian. A person who violates the provisions of this subsection is guilty of a class A misdemeanor.

559.106. LIFETIME SUPERVISION OF CERTAIN OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN. — 1. Notwithstanding any statutory provision to the contrary, when a court grants probation to an offender who has pleaded guilty to or has been found guilty of an offense in sections 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after August 28, 2005, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section, the court shall order that the offender be supervised by the board of probation and parole for the duration of his or her natural life.

2. For the purpose of this section, a prior sex offender is a person who has previously pleaded guilty to or has been found guilty of an offense contained in chapter 566, RSMo.

3. When probation for the duration of the offender's natural life has been ordered, a mandatory condition of such probation is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

4. In appropriate cases as determined by a risk assessment, the court may terminate the probation of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

565.024. INVOLUNTARY MANSLAUGHTER, PENALTY. — 1. A person commits the crime of involuntary manslaughter in the first degree if he:

(1) Recklessly causes the death of another person; or

(2) While in an intoxicated condition operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause the death of any person.

2. **Except as provided in subsections 3 and 4 of this section,** involuntary manslaughter in the first degree is a class C felony.

3. **A person commits the crime of involuntary manslaughter in the first degree if he or she, while in an intoxicated condition operates a motor vehicle in this state, and, when so operating, acts with criminal negligence to:**

(1) Cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or

(2) Cause the death of two or more persons; or

(3) Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths by weight of alcohol in such person's blood.

4. Involuntary manslaughter in the first degree under subdivisions (1), (2), or (3) of subsection 3 of this section is a class B felony. A second or subsequent violation of

subdivision (3) of subsection 3 of this section is a class A felony. For any violation of subsection 3 of this section, the minimum prison term which the defendant must serve shall be eighty-five percent of his or her sentence.

5. A person commits the crime of involuntary manslaughter in the second degree if he acts with criminal negligence to cause the death of any person.

[4.**]** **6.** Involuntary manslaughter in the second degree is a class D felony.

566.083. SEXUAL MISCONDUCT INVOLVING A CHILD, PENALTY. — 1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes **[**the person's**]** **his or her** genitals to a child less than fourteen years of age **[**in a manner that would cause a reasonable adult to believe that the conduct is likely to cause affront or alarm to a child less than fourteen years of age**]** **under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child**;

(2) Knowingly exposes **[**the person's**]** **his or her** genitals to a child less than fourteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) **Knowingly** coerces or induces a child less than fourteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. As used in this section, the term "sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

3. Violation of this section is a class D felony unless the actor has previously pleaded guilty to or been convicted of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been convicted of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.

568.050. ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE. — 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He **or she** with criminal negligence 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) He **or she** knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he **or she** recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He **or she** knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo**; or**

(5) The person operates a vehicle in violation of sections 565.024, RSMo, 565.060, RSMo, 577.010, RSMo, or 577.012, RSMo, while a child less than seventeen years of age is present in the vehicle.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he **or she** is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

575.205. TAMPERING WITH ELECTRONIC MONITORING EQUIPMENT. — 1. A person commits the crime of tampering with electronic monitoring equipment if the person intentionally removes, alters, tampers with, damages, or destroys electronic monitoring equipment which a court or the board of probation and parole has required such person to wear.

2. This section does not apply to the owner of the equipment or an agent of the owner who is performing ordinary maintenance or repairs on the equipment.

3. The crime of tampering with electronic monitoring equipment is a class C felony.

575.206. VIOLATING A CONDITION OF LIFETIME SUPERVISION. — 1. A person commits the crime of violating a condition of lifetime supervision if the person knowingly violates a condition of probation, parole, or conditional release when such condition was imposed by an order of a court under section 559.106, RSMo, or an order of the board of probation and parole under section 217.735, RSMo.

2. The crime of violating a condition of lifetime supervision is a class C felony.

577.001. CHAPTER DEFINITIONS. — 1. **As used in this chapter, the term "court" means any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court.**

2. As used in this chapter, the term "drive", "driving", "operates" or "operating" means physically driving or operating a motor vehicle.

[2.**]** **3.** As used in this chapter, a person is in an "intoxicated condition" when he is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

[3.**]** **4.** As used in this chapter, the term "law enforcement officer" or "arresting officer" includes the definition of law enforcement officer in subdivision (17) of section 556.061, RSMo, and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri.

[4.**]** **5.** As used in this chapter, "substance abuse traffic offender program" means a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol or drug related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 7 of section 577.041.

577.023. PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An **"aggravated offender" is a person who has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses or a person who has pleaded to or has been found guilty of involuntary manslaughter under subdivision (2) of subsection 1 or subsections 3 and 4 of section 565.024, RSMo, assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree under subdivision (3) of subsection 1 of section 565.082, RSMo, and in addition, one other intoxicated-related traffic offense;**

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or been found guilty of, on two or more separate occasions, involuntary manslaughter under subdivision (2) of subsection 1 or subsections 3 and 4 of section 565.024, RSMo, assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree under subdivision (3) of subsection 1 of section 565.082, RSMo;

(c) A person who has pleaded guilty to or been found guilty of involuntary manslaughter under subdivision (2) of subsection 1 or subsections 3 and 4 of section 565.024, RSMo, assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree under subdivision (3) of subsection 1 of section 565.082, RSMo, and in addition, two or more intoxication-related traffic offenses;

(3) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of subsection 1 **or subsections 3 and 4** of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing;

[(2)**] (4)** A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses**[**, where such two or more offenses occurred within ten years of the occurrence of the intoxication-related traffic offense for which the person is charged**]**;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo; and

[(3)**] (5)** A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. **Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.**

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No **state, county, or municipal** court shall suspend the imposition of sentence as to a prior **offender, [**or**]** persistent offender**,** aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or

probation such person performs at least sixty days of community service under the supervision of the court. **No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.**

[5.**] 7.** The **state, county, or municipal** court shall find the defendant to be a prior offender **[**or**],** persistent offender, **aggravated offender, or chronic offender** if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender **[**or**],** persistent offender**, aggravated offender, or chronic offender**; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender **[**or**],** persistent offender**, aggravated offender, or chronic offender**.

[6.**] 8.** In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

[7.**] 9.** In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

[8.**] 10.** The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

[9.**] 11.** The defendant may waive proof of the facts alleged.

[10.**] 12.** Nothing in this section shall prevent the use of presentence investigations or commitments.

[11.**] 13.** At the sentencing hearing both the state**, county, or municipality** and the defendant shall be permitted to present additional information bearing on the issue of sentence.

[12.**] 14.** The pleas or findings of guilty shall be prior to the date of commission of the present offense.

[13.**] 15.** The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders **[**or**],** persistent offenders**, aggravated offenders, or chronic offenders**.

[14.**] 16.** Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a conviction or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in a state court shall be treated as a prior conviction.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect the health, well-being and dignity of the children of this state, the repeal and reenactment of section 566.083 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 566.083 of this act shall be in full force and effect upon its passage and approval.

Approved July 13, 2005

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